for that purpose, use such force as may be necessary."

15. Page 3,—

Omit lines 1 to 17.

Clause 3A (New)

16. Page 3,—

after line 17, *insert*—

Amendment of Section 4.—

'3A. In section 4 of the principal Act, sub-section (4) shall be omitted.'

Clause 4

17. Clause 4 not adopted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Now the Minister to move that the amendments made by the Lok Sabha in the Bill be agreed to .

SHRIMATI SHEILA KAUL : Sir, I move :

That the amendments made by the Lok Sabha in the Bill be agreed to.

The question was put and the motion was adopted.

STATUTORY RESOLUTION

I. SEEKING DISAPPROVAL OF THE CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS (CONDITIONS OF SERVICE) AMENDMENT ORDINANCE. 1993.

II. THE CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS (CONDITIONS OF SERVICE) AMENDMENT BILL, 1993.

SHRI VIREN J. SHAH (Maharashtra): Sir, I move the following Resolution :—

"That this House disapproves of the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993 (No. 32 of 1993) promulgated by the President on the 1st October, 1993."

Sir, in the last Session I had spoken about the promulgation of ordinances which goes against the basic tenet of the Constitution. The same hon. Minister for Law agreed with me that promulgation of ordinances should certainly be a rare occurrence. This is the 32nd Ordinance of 1993. In principle I am against ordinances I have got with me the Constitution of India and some debates of the Constituent Assembly which one may look at an appripriate time. But only when it is absolutely essential. I am not going to read article 123 which provides for this just now. But it does say, "...if circumstances exist which render it necessary for him to take immediate action, he may promulgate such an Ordinance..." The question is whether such circumstances did exist when this Ordinance was promulgated. If one reads the Ordinance and the Bill, it is difficult for one to find out whether circumstances existed which rendered it necessary for him to take immediate action. This is absolutely unfortunate. There was no genuine need. There is a strong impression that this exercise was done for extraneous purposes. The work as such did not warrant it. I am not aware whether the Law Minister has read the debates of the Constituent Assembly of June 1949 when this particular article was brought in. Dr. Ambedkar, Pandit H. N. Kunzru, Shri Shibbanlal Saxena, Shri K.M. Munshi and many others spoke about the need to have an independent Election Commission. I am not going to quote from it now. One can understand, though not forgive, as to why the hon. Law Minister might not have read the debates. But it is difficult to understand why he did not read even the recent Supreme Court jud-

gement when an Ordinance was issued for appointment of two additional Commissioners. This was struck down by the Supreme Court. What did the Supreme Court say ? I will read paragraph 18 of the judgement delivered by the Supreme Court, that is, AIR 1991, Supreme Court 1745. In the first instance it says, that the work of the Commission did not warrant that appointment. The Supreme Court said that the reasons given by the Government cut no ice. Further, the views of the Chief Election Commissioner were also not ascertained before making the said appointment. In fact, it was a repetition of an event which had not brought credit to the Government of India and certainly not the people. Just like the Bourbons of France, this Government does not learn any lessons from its own mistakes. Now, if I may submit, in December, 1988, the then Prime Minister, Shri Rajiv Gandhi, stated in the Parliament that he was against the idea of having a Multi-Member Election Commission. It is presumed, the Supreme Court writes, that the statement was made by the Prime Minister after the Government had considered the views expressed by the Second Respondent on 29th October, 1988. The other Respondents at that time were the Chief Election Commissioner and the other Elections Commissioners. The Chief Election Commissioner had also supported that view. I shall also mention here the opinions of legal experts after this Ordinance was promulgated. The former Supreme Court Judge, Shri H. R. Khanna said, "I may say that the Ordinance was avoidable. It should have been first discussed by the Parliament before introducing such a major change". Another constitutional expert, Mr. Nariman said the same thing that the Ordinance dilutes the powers of the Chief Election Commissioner and it would definitely hamper the independence of the Chief Election Commissioner. Several others have stated how it was not a desirable thing at all. And we have seen what the result of it was. The result of that was a running battle between the Chief Election Commissioner and other Election Commissioners, reports of which kept on coming not only in the newspapers but also in the international media. And the result of it was seen. It was seen that there was no team spirit. And, here again, I may draw the attention of the hon. Minister to Page 1753 about 'team spirit' and 'working together'. The hon. Supreme Court mentioned the following two points : One, "Admittedly further, the views of the Chief Election Commissioner were not asceratined before making the said appointment. In fact, it was presented to him at that time." And it says. "The Election Commission has to work in a manner of team spirit and working together." The Supreme Court goes further to say that the other Election Commissioners probably misunderstood their roles, they thought that they were appointed to control the Chief Election Commissioner at every stage. And the evidence of two or three instances was given. Now, this is how the situation was. There is a precedent for knowing how this functions. There is a specific comment by the Supreme Court about how team spirit should be maintained, but that was not there. Now, unfortunately, this matter also has gone to the hon. Supreme Court and they have given an interim order giving all the powers to the Chief Election Commissioner, in effect, totally nullifying this Ordinance which said, "Circumstances exist that there is immediate need"; but there were no such circumstances. Elections were held smoothly. The Chief Election Commissioner himself has stated more than once that he does not have work for more than 13 minutes in a day; and you add two Commissioners. It is not only that it resulted in a fiasco but, if I may mention, not only the Government of his country but the country as such has got into a bad light both nationally and internationally. Also, the faith of the people in the democratic system has gone down. Again, if the hon. Minister cares to read some of these debates, he will find out, when this particular article was brought in, what was expressed. And I am going to quote Dr. Ambedkar, Mr. Munshi and others. I am beginning by quoting what

was said by Dr. Ambedkar on 15th June, 1949. I will quote three or four relevant points because when they brought in this article, this is what was said—the Fundamental Rights Committee made a Report. The Committee on Fundamental Rights was appointed in January-February, 1947, when the Constituent Assembly started its functioning. Dr. Rajendra Prasad chaired it. At that time, there was no question, not even a thought, as to whether there would be partition or not. So, everyone participated and this is what Dr. Ambedkar said on the floor of the House, "That the Committee made a Report saying that it should be recognised that the independence of the Election Commission and avoidance of any interference by the Executive in the elections to Legislature should be regarded as a fundamental right and provided for in the Chapter dealing with Fundamental Rights." Later on, they decided that so far as the fundamental question was concerned, the Election machinery should be outside the control of the Executive. There was no dispute. The entire House agreed that the body holding elections to Parliament and Legislatures of the States outside the Executive control, should be called the Election Commission. This is the provision...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Try to be brief. We have more than 15 speakers.

SHRI VIREN J. SHAH : Sir, this is a very important matter and I intend to take some reasonable time and not unreasonable time. I don't ever take much time of the House. I intend to quote from the debates of the Constituent Assembly which had spent days together. We are just flouting what our founding fathers visualised. I want to quote from what Mr. Munshi had spoken on that very matter :

"Anyway the Chief Election Commissioner, an independent officer, will be the chairman and being a permanent officer will have naturally the directing and supervising powers over the whole Commission. Therefore, it is not correct to say that the independence of the Commission is taken away to any extent."

What happened is that this fundamental right—it was moved from there to the other fundamental rights—this non-interference by the executive Government, has been taken away. Equal rights have been given to the other Election Commissioners. But they have never been able to exercise those powers at all. I want to continue quoting Mr. Munshi. It is only one sentence. He said :

"Dr. Ambedkar made it clear that the idea of an Election Commission was accepted as far back as January-February, 1947 when even the question of Partition of the country did not become a settled fact. It was unanimously acceped by the Advisory Committee and again it was accepted unanimously by the House that it should be part of the Fundamental Rights Committeee." What Mr. Munshi said is very essential and relevant today. He further said :

"Corrupt practices do not necessarily apply to the candidates. There may be corrupt practices by the Government of the day. Therefore, it is necessary that we should not consider the question from the point of view of any theoretical provincial autonomy, a point which is being trotted out again and again in the House."

The point is that at that time they could not have suspected that they would come down so much and so fast. Even then, a man like Mr. Munshi, who was highly respected, mentioned that corrupt practices could be by the Government and hence the Election Commission has to be absolutely independent and free from any kind of interference from the executive. It was voted and agreed to by everybody in the House, in the Constituent Assembly, whether they belonged to the Congress party or any other party. They were all,

including the members from the different native States as they were called then, of the same view. If you look at the damaging provisions of majority provided in the Ordinance, I think there is relevance in the Supreme Court judgment which I quoted, i.e. Dhanoa vs. Union of India, which says :

"The Chief Election Commissioner does not, therefore, appear to be *primus inter pares*, that is, the first among equals, but is intended to be placed in a distinctly higher position."

The hon. Supreme Court has said this. It has also referred to the Drafting Committee on the Fundamental Rights etc. The Supreme Court quoted Dr. Ambedkar while commenting on clause (4) of article 289—now clause (5) of article 324— thus :

"If the object of this House is that all matters relating to elections should be outside the control of the executive Government of the day, it is absolutely necessary that the new machinery that we are setting up, namely, the Election Commission, should be irremovable by the executive by a mere flat. We have therefore, given the Chief Election Commissioner the same status so far as removability is concerned as we have given to the judges of the Supreme Court. We, of course, do not propose to give the same status to the other Members of the Commission because they could be removed any time."

This is what Dr. Ambedkar had stated when this particular provision was brought in under which the Government have brought this Ordinance. They are taking shelter under this provision. This is precisely what Dr. Ambedkar had stated when this particular article was being debated.

Now, Mr. Vice-Chairman, I am concluding. But I would like to refer to another point. When the Government was in such a haste to bring out such an Ordinance which was not required at all just before the elections, which made an impression in the mind of everybody that this was certainly for some extraneous considerations, they did not think of looking at the various electoral reforms which were pending with the Government for years. Let me refer to the Committee appointed by the Government of India under Mr. Dinesh Goswami, the then Law Minister, which consisted of Shri M. L. Shakdher, a former Secretary-General of the Lok Sabha and a former Chief Election Commissioner and Mr. L. P. Singh, a former Governor and a former Home Secretary, whom the late Jawaharlal Nehru had highly praised. What is their recommendation ? They had recommended that it should be a multi-member body. They have said :

"The appointment of the Chief Election Commissioner should be made by the President in consultation with the Chief Justice of India and the Leader of the Opposition and, secondly, the appointment of the other two Election Commissioners should be made in consultation with the Chief Justice of India, the Leader of the Opposition and the Chief Election Commissioner."

Now, this again is borne out from the Constituent Assembly debates on this very article. Several Members belonging to the Treasury Benches and very eminent persons repeatedly mentioned, "Today, it may be one situation because Prime Minister Nehru is there. But we cannot provide anything in the Constitution which enables the Government in future to appoint Election Commissioners in a manner that can lead to loss of independence of the Election Commission." This is precisely the point and when this Ordinance was brought forward, there was no need. Why did they not study this ? The honourable Law Minister may kindly answer this and indicate to this House or enlighten this House on this point and tell the House why, when the Dinesh Goswami Committee Report is with you that electoral reforms have not been looked into, you rushed to make this Ordinance which has,

in any case, become not effective at all. It is totally ineffective because of the way in which it functioned and the effect of the Supreme Court judgment.

Many Members of Parliament wanted, and there was an attempt, to impeach the present Chief Election Commissioner. They might have had different points of view. But there has been universal praise that in the recently conducted elections, first time in the recent past, people were enabled to vote without fear or favour. The sine qua non of a democratic system is that the people should vote without fear and without considerations of favour. This was made possible by this Chief Election Commissioner with the help of the various kinds of machinery that the Government of India was reluctant to provide. There was a running battle between the Government of India and the Chief Election Commissioner prior to this and subsequent to this and, even now, in the Supreme Court the matters are there which brings no credit to the Government of India because it is the Government of India and the people of India who are concerned.

Hence, first of all, I propose this Resolution and, secondly, I very humbly request the honourable Law Minister to consider this in the light of the Constituent Assembly debates and in the light of the whole intentions of the Founding Fathers of the Constitution and accept this Resolution and not insist on passing the Bill by this House. Thank you.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ) : Sir, I beg to move ;

> "That the Bill to amend the Chief Election Commissioner and Other Election Commissioners (Conditions of Service) Act, 1991, as passed by Lok Sabha, be taken into consideration."

Sir, the question whether there should be a multi-member Election Commission has been debated from time to time. In 1990, the Committee on Electoral Reforms, headed by the then Law Minister, Shri Dinesh Goswami, had recommended that the Election Commission should be a three-member body. In Parliament, honourable Members have repeatedly made the demand for making the Election Commission a multi-member body. The honourable Supreme Court, in the Dhanoa case, has aptly described the need for making the Election Commission a multi-member body, and I would like to quote from its judgment. I quote :

> "When an institution like the Election Commission is entrusted with vital functions, and is armed with exclusive and uncontrolled powers to execute them, it is both necessary and desirable that the powers are not exercised by one individual, however, all-wise he may be. It ill-conforms to the tenets of the democratic rule."

The hon. Supreme Court in the aforesaid case has also observed that it is an acknowledged rule of transacting business in a multi-member body that—I quote—"when there is no express provision to the contrary, the business is to be carried on unanimously"; it further said—I quote—and that "the rule to the contrary such as the decision by majority has to be laid down specifically by spelling out the kind of majority—whether simple special, of all the members or of the members present, and voting, etc." The Court further observed : "In a case such as that of the Election Commission which is not merely an advisory body but an executive one, it is difficult to carry on its affairs by insisting on unanimous decisions in all matters. Hence a realistic approach demands that either the procedure for transacting business is spelt out by a statute or a rule either prior to or simultaneously with the appointment of the Election Commissioners or that no appointment of Election Commissioners is made in the absence of such procedure."

As the hon. Members are aware, the President in exercise of the powers under article 324(2) of the Constitution fixed the number of Election Commissioners other than the Chief Election Commissioner at two with effect from 1st October, 1993. With the Election Commission becoming a three member body, it became necessary to make provisions for transaction of business of the multi-member Commission. Sub-section (1) of the proposed section 10 confers power on the Election Commission to regulate, by unanimous decision, the procedure for transaction of its business as also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners. However, until such time as the Election Commission makes proivsion for dispoasl of the business under sub-section (1), the Bill specifies in sub-sections (2) and (3) of the said section the manner for disposal of business by the Election Commission. The opportunity was also utilised to grant the salary and other perquisites admissible to a Supreme Court Judge to the other Election Commissioners. As the Parliament was not in session, the President promulgated the Chief Election Commissioner and other Election Commissioners (Condition of Service) Amendment Ordinance, 1993 on 1st October, 1993.

The present Bill seeks to replace this Ordinance by an Act of Parliament.

Sir, I commend the Bill for the consideration of the House.

The questions were proposed.

SHRI VIREN J. SHAH : Sir, I seek one clarification. The hon. Minister has read from the Goswami report and also from the Supreme Court..

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Shah..

SHRI VIREN J. SHAH : But he has not dealt with the points that I have raised. The Goswami Report makes a specific recommendation.

SHRI H. R. BHARDWAJ : I will reply to the points.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Shah, you know the procedure. You have got a right of reply after the Members spoke.

SHRI VIREN J. SHAH : The only thing I would submit is..

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : The Minister will reply to all your points.

SHRI VIREN J. SHAH : He has quoted very selectively, missing out the points which go against the Government. ....(*Interruptions*).

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : The Minister will reply.

SHRI H. R. BHARDWAJ : I will reply to all the points when the debate is over.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : At the time when the Minister replies you have also got a right of reply. Shri Mohammad Afzal.

SHRI JAGDISH PRASAD MATHUR (Uttar Pradesh) : Sir, I am on a point of order. The normal procedure is that when the Resolution is moved for disapproval, the Minister replies and Members party-wise, speak immediately after it. The Member from my party is not present. He may be asked to speak later. But this procedure should not be disrupted.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Mathur...

SHRI JAGDISH PRASAD MATHUR : The procedure is that the disapproval resolution is moved and the Minister speaks. Then Members are called upon to speak party-wise. This should not be disputed. Mr. Chaturvedi may be asked to speak later when he comes.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Shri Mohammed Afzal.

SHRI SATYA PRAKASH MALAVIYA (Uttar Pradesh) : Sir, I have an amendment to move.

3.00 P.M.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Your amendment is for reference to a Select Committee.

SHRI SATYA PRAKASH MALAVIYA : Yes.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : You can move it.

SHRI SATYA PRAKASH MALAVIYA Sir, I move :

That the Bill to amend the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991, be referred to a Select Committee of the Rajya Sabha, consisting of the following Members, namely :—

1. Shri Chaturanan Mishra
2. Shri Ish Dutt Yadav
3. Shri Shiv Pratap Mishra
4. Shri Krishan Lal Sharma
5. Shrimati Kamla Sinha
6. Shrimati Renuka Chowdhury
7. Shri P. Upendra
8. Shri Digvijay Singh
9. Shri Satya Prakash Malaviya

with instructions to report by the first day of the next Session.

The question was proposed.

श्री मोहम्मद अफजल उर्फ मीम अफजल (उत्तर प्रदेश) : वाइस चेयरमैन साहब, जो बिल लाया गया है सरकार की तरफ से, जिसे लोक सभा में पास कर दिया गया है मैं बड़े दुख और तकलीफ के साथ इसकी हिमायत करता हूं और उसके कानूनी पहलुओं पर राम जेठमलानी जो हमारी पार्टी की तरफ रोशनी डालेंगे लेकिन मैं आनरेबल ला मिनिस्टर से इलेक्शन कमीशन के अख्तियारात के बारे में कुछ बातें कहना चाहता हूं । मैं यह जानना चाहता हूं कि क्या इलेक्शन कमीशन को इस बात का अख्तियार है कि वह किसी भी शहरी के बारे में अपने ही तौर पर यह तय कर ले कि वह गैर मुल्की है या नहीं ? मैं मिसाल के तौर पर उनकी खिदमत में कुछ चीजें पेश करना चाहता हूं । दिल्ली के अंदर अगस्त 1992 से लेकर दिसम्बर 1992 तक एनुमरेशन किया गया । एनुमरेशन करने के बाद एनुमरेशन कार्ड लोगों को तकसीम किये गये जिसकी कापियां मेरे पास मौजूद हैं ।

उपसभाध्यक्ष (श्री मोहम्मद सलीम) पीठासीन हुए)

इसके बाद 25 जनवरी, 1993 को गवर्नमेंट आफ इंडिया, नेशनल केपिटल टेरिटरी दिल्ली, आफिस आफ द चीफ इलेक्ट्रोरल आफिसर ने एक आर्डर जारी किया है जिसका नम्बर है एफ 101(65)/92 इलेक्शन/527—565 दिनांक 25 जनवरी, 1931 इसमें प्रेस के लिए नोट जारी किया गया है । इसमें लिखा है :

"It is notified for the information of the general public that as per the directions of the Election Commission of India, the electoral rolls of the following areas predominantly occupied by foreign nationals will be published in draft on 25-1-1993."

और उसके बाद 13 कंस्टीट्युएंसी के नाम दिये गये हैं और उसमें तकरीबन 150 पोलिंग स्टेशन आते है। इसके बाद एक हैरतअंगेज बात होती है। मैं जानना चाहता हूं कि क्या इलेक्शन कमीशन को यह अख्तियार है कि बजारते दाखिला से यह पूछें कि किस एरिया के अंदर कितने फारेन नेशनल हैं ? इसकी इक्वायरी करने का हक इनको है या नहीं मैं नहीं जानता । हमारे लॉ मिनिस्टर ज्यादा बेहतर जानते होंगे । लेकिन जो नतीजा आया यह मैं आपके सामने बताना चाहता हूं । जो एनुमरेशन किया गया उस एनुमरेशन की लिस्ट तैयार कर लेने के बाद लोगों को इलेक्ट्रोरल कार्ड दे दिये गये जो मेरे पास मौजूद हैं । उसके बाद नहीं मालूम क्या हुआ कि जो इलेक्ट्रोरल लिस्ट फाइनल छपकर सामने आई जिसमें 150 पोलिंग स्टेशंस है तकरीबन डेढ़ लाख लोगों का नाम उसमें से खारिज कर दिय

गया । मेरा अंदाजा डेढ़ लाख है, ज्यादा भी हो सकता है, 5-7 हजार कम भी हो सकते हैं । मैं मिसाल के तौर पर पेश करता हूं । पोलिंग स्टेशन नं. 50 है जो सीलमपुर की कंस्टीट्यूएंसी 49 है इसमें जबल स्टोरी डी डी ए क्वार्टर्स आते हैं। मकान 190 से लेकर 300 तक दिये गये हैं । इसमें मैं आपको दिखाना चाहता हूं कि जो नाम मुस्लिम्स के मकानात हैं वे इसके अंदर शामिल हैं । मैं बताना चाहता हूं मकान नं. 19 शामिल है, 20 और 21 शामिल नहीं है क्योंकि इसमें मुसलमान रहते हैं। मकान नं. 22 शामिल है क्योंकि नान मुस्लिम रहते हैं लेकिन 23 शामिल नहीं है । उसके बाद मकान नं. 24 से लेकर 29 तक का यह हाल है कि 24 शामिल है 25 से 29 तक गायब हैं। यह इस कंस्टीट्यूएंसी का हाल है। इसी तरह से 51 का भी यही हाल है ।

और 51 के बाद 52 में भी इसी तरह से है। इसके बाद और कांस्टिट्यून्सीज हैं जिनका नम्बर है 58, 59, 69, 70, 80 और 82 मैं एक मिसाल देता हूं। 49 सीलमपुर एक्सटेंशन में 58 नम्बर की कांस्टिट्यूएन्सी है। के-2 और के. बी. ब्लाक इंक्लूडिंग मंदिर एण्ड अखाड़ा न्यू सीलमपुर, हाउस नम्बर 352 से 702 तक है। सैकड़ों मकानात इसके अन्दर हैं। मकानात मौजूद हैं, मुहल्ला मौजूद है, इलेक्टोरल कार्ड भी मौजूद हैं और इलेक्शन का यह पूरा कच्चा चिट्ठा भी मौजूद है और फार्म भी छाप रहे हैं तो क्या इन सैकड़ों मकानात में एक भी वोटर नहीं है ? वोटर को जगह पर निल दिखाया गया है। यह सादा कागज में आपके सामने पेश कर रहा हूं। इसके अलावा मेरे पास किदवई नगर का मामला है जहां पर नाम निकाल दिये गये हैं। मैं जानना चाहता हूं कि क्या इलेक्शन कमीशन को इस बात का अख्तियार है कि वह अपने तौर पर यह तय कर ले कि किस एरिया के अन्दर फारन नेशनल्स रहते हैं और उनके नाम इन्यूमरेट करने के बाद, इन्यूमरेशन कार्ड देने के बाद उनके नामों को इलेक्टोरल रौल से खारिज कर दे? यह गैर-कानूनी काम दिल्ली के इलेक्शन कमीशन ने किया है। इससे भी ज्यादा दिलचस्प बात एक और है। एक शख्स है जिसका नाम डा. मोहम्मद जियाउल सिद्दीकी है और वाइफ का नाम जबीन बेगम है। इस शख्स का नाम इलेक्टोरल रौल से खारिज हो गया । इसने अप्रैल, 1992 के अन्दर फार्म-6 भरा । इसको जो जवाब आया है वह बड़ा हैरतअंगेज जवाब है। इसकी बीवी पिछले 11 साल से एल. एन. जे. पी. होस्पिटल में जो एक सरकारी अस्पताल है, उसमें स्टाफ नर्स के तौर पर काम कर रही है। इसको इलेक्शन दफ्तर ने 24-8-93 को एक खत भेजा है जिसका नम्बर है ई. एन. ओ./45/46/टी. एस. 83/34-37, आफिस आफ दी रजिस्ट्रेशन आफिसर, सीलमपुर एसेम्बली कांस्टिट्यूएन्सी। इसमें कहा गया है कि आपका फार्म-6 रिजेक्ट कर दिया गया है। इसलिए कि आप गैर-मुल्की हैं। क्या इलेक्शन कमीशन को इस तरह का कोई आर्डर देने का अख्तियार है। डेढ़ लाख लोगों के नाम इस तरह से काट दिये गये हैं और उनको फारन नेशनल बना दिया गया है और यह सब करने के बाद ये इलेक्शन कराये गये हैं। श्री जगदीश टाइटलर हमारे सेन्ट्रल केबिनेट के मिनिस्टर हैं, उन्होंने बकायदा एक इस रिलीज दी है जिसमें इल्जाम लगाया है कि --

the B.J.P. in connivance with some officers in the Election Commission struck out 25 per cent of the voters from the electoral roll of the Sadar Bazar Parliamentary constituency.

यानी मैं तो ईस्ट दिल्ली की बात कर रहा हूं। जिसमें जमुना पार के डेढ़ लाख लोगों के नाम निकाल दिये गये और सदर की कांस्टिट्यूएन्सी से जगदीश टाइटलर साहब ने तमाम डाकूमेंट्स पेश किये हैं और पिछले इलैक्टोरल रोल को निकाल करके 1991 के, उसकी तुलना 1993 से की है। एक लाख 34 हजार 473 नाम इनकी पार्लियामेंटरी कांस्टिट्यूएन्सी से निकाले गये हैं । मैंने यह मसला राज्य सभा में भी उठाया था । मुझे दुःख है कि चेयर से क्लीयर कट आदेश सरकार को हो गये कि इस तमाम मामले की जानकारी की जाये, इसकी इंक्वायरी की जाये और इंक्वायरी करके हाउस में इसकी रिपोर्ट दी जाये या इस पर स्टेटमेंट दिया

جائیں۔ یہ ریکارڈ سے چیک کیا جا سکتا ہے۔ مسٹر ترمبا ڈپٹی چیئرمین نے اس پر بقایا آرڈر جاری کیا۔ آج یہ آرڈر دیئے ہوئے 5-6 دن ہو گئے ہیں۔ یہ سب بے ایمانی کی گئی ہے ناجائز اختیارات سے۔ آج لوگ مبارکباد پیش کر رہے ہیں کہ دہلی کے اندر پورے امن و امان سے الیکشن ہوا ہے۔ مبارکباد کے مستحق یہ لوگ ہیں، 10 لاکھ لوگ، میں کہتا ہوں کہ 10 لاکھ لوگ، اگر سات کانسٹیٹیوئنسی سے ایک ایک لاکھ اور ڈیڑھ لاکھ لوگ نکالے گئے ہیں تو تقریباً 10 لاکھ لوگوں کے نام نکالے گئے ہیں اور جن 10 لاکھ لوگوں کے نام نکالے گئے ہیں انہوں نے کوئی جھگڑا نہیں کیا، کوئی فساد نہیں کیا۔

†[شری محمد افضل عرف م۔ افضل "اتر پردیش" : وائس چیرمین صاحب۔ جو بل لایا گیا ہے سرکار کی طرف سے۔ جسے ابھی سبھا میں پاس کر دیا گیا ہے میں بڑے دکھ اور تکلیف کے ساتھ اسکی حمایت کرتا ہوں اور اسکے قانونی پہلوؤں پر رام جیٹھ ملانی جی ہماری پارٹی کی طرف سے روشنی ڈالینگے۔ لیکن میں آنریبل لا منسٹر صاحب سے الیکشن کمیشن کے اختیارات کے بارے میں کچھ باتیں کہنا چاہتا ہوں۔ میں یہ جاننا چاہتا ہوں کہ کیا الیکشن کمیشن کو اس بات کا اختیار ہے کہ وہ کسی بھی شہری کے بارے میں اپنے ہی طور پر یہ طے کرلے کہ وہ غیر ملکی ہے یا نہیں؟ مثال کے طور پر انکی خدمت میں کچھ چیزیں پیش کرنا چاہتا ہوں۔ دلی کے اندر اگست ۱۹۹۲ سے لے کر دسمبر ۱۹۹۲ تک اینومریشن کیا گیا۔ اینومریشن کرنے کے بعد اینومریشن کارڈ لوگوں کو تقسیم کئے گئے جسکی کاپیاں میرے پاس موجود ہیں۔

[اب سبھا ادھیکش شری محمد سلیم بیٹھ آسین ہوئے]

اسکے بعد ۲۵ جنوری ۱۹۹۳ کو گورنمنٹ آف انڈیا، نیشنل کیپیٹل ٹیراٹری دلی، آفس آف دی چیف الیکٹورل آفیسر نے ایک آرڈر جاری کیا ہے جسکا نمبر ہے ایف/۱۵۱/(۶۵)/۹۲/الیکشن/۵۶۰-۵۲۷/دنانک ۲۵ جنوری، ۱۹۹۳۔ اسمیں پریس کیلئے نوٹ جاری کیا گیا ہے۔ اسمیں لکھا ہے :

"It is notified for the information of the general public that as per the directions of the Election Commission of India, the electoral rolls of the following areas predominantly occupied by foreign nationals will be published in draft on 25-1-1993."

اور اس کے بعد ۱۳ کانسٹی ٹیوینسی کے نام دئے گئے ہیں اور اس میں تقریباً ۱۵ پولنگ اسٹیشن آتے ہیں۔ اس کے بعد ایک حیرت انگیز بات ہوتی ہے۔ میں جاننا چاہتا ہوں کہ کیا الیکشن کمیشن کو یہ اختیار ہے کہ وزارت داخلہ سے یہ پوچھے کہ کس ایریا کے اندر کتنے فارن نیشنل ہیں؟ اس کی انکوائری کرنے کا حق انکو ہے یا نہیں میں نہیں جانتا۔ ہمارے لا منسٹر زیادہ بہتر جانتے ہونگے۔ لیکن جو نتیجہ آیا وہ میں آپ کے سامنے بتانا چاہتا ہوں۔ جو اینومریشن کیا گیا اس اینومریشن کی

†[ ] Transliteration in Arabic Script.

کانسٹی ٹیونسی ہے کے۔ ۲۔ اور کے۔بی۔ بلاک انکلوڈنگ مندر اینڈ اکھاڑہ نیو سیلم پور۔ ہاؤس نمبر ۵۳۲ سے ۷۰۲ تک ہے۔ سیکڑوں مکانات اس کے اندر ہیں۔ مکانات موجود ہیں مجلہ موجود ہے الیکٹورل کارڈ بھی موجود ہیں۔ اور الیکشن کا یہ پورا کچا چٹھا بھی موجود ہے اور فارم بھی چھاپ رہے ہیں تو کیا ان سیکڑوں مکانات میں ایک بھی ووٹر نہیں ہے ؟ ووٹروں کی جگہ پر نل دکھایا گیا ہے۔ یہ سادہ کاغذ میں آپ کے سامنے پیش کر رہا ہوں۔ اس کے علاوہ میرے پاس قدوائی نگر کا معاملہ ہے جہاں پر نام نکال دئے گئے ہیں۔ میں جاننا چاہتا ہوں کہ کیا الیکشن کمیشن کو اس بات کا اختیار ہے کہ وہ اپنے طور پر یہ طے کرلے کہ کس ایریا کے اندر فارن نیشنل رہتے ہیں اور ان کے نام اینویٹ کرنے کے بعد۔ اینومریشن کارڈ دینے کے بعد ان کے ناموں کو الیکٹورل رول سے خارج کر دے ؟ یہ غیر قانونی کام دلی کے الیکشن کمیشن نے کیا ہے۔ اس سے بھی زیادہ دلچسپ بات ایک اور ہے۔ ایک شخص ہے جس کا نام ڈاکٹر محمد ضیاالصدیقی ہے اور وائف کا نام جبین بیگم ہے۔ اس شخص کا نام الیکٹورل رول سے خارج ہو گیا۔ اس نے اپریل ۱۹۹۲ کے اندر فارم ۶ بھرا۔ اسکو جو جواب آیا ہے وہ بڑا حیرت انگیز جواب ہے۔ اس کی بیوی پچھلے ۱۱ سال سے ایل۔ این۔ جے۔ پی۔ ہاسپٹل میں جو ایک سرکاری اسپتال ہے۔ اس میں لسٹ تیار کر لینے کے بعد لوگوں کو الیکٹرولر کارڈ دے دئے گئے جو میرے پاس موجود ہیں۔ اس کے بعد نہیں معلوم کیا ہوا کہ جو الیکٹرورل لسٹ فائنل چھپ کر سامنے آئی جس میں ۱۵۰ پولنگ اسٹیشن ہیں تقریباً ڈیڑھ لاکھ لوگوں کا نام اس میں سے خارج کردیا گیا۔ میرا اندازہ ڈیڑھ لاکھ سے زیادہ بھی ہو سکتا ہے۔ ۷۵ ہزار کم بھی ہو سکتا ہے۔ میں مثال کے طور پر پیش کرتا ہوں۔ پولنگ اسٹیشن نمبر ۵۰ ہے جو سیلم پور کی کانسٹی۔ ٹیونسی ۳۹ ہے اس میں ڈبل اسٹوری ڈی۔ ڈی۔ اے۔ کوارٹرس آتے ہیں مکان ۱۹۰ سے لے کر ۳۰۰ تک دئے گئے ہیں۔ اسمیں میں آپ کو دکھانا چاہتا ہوں کہ جو نان مسلمس کے مکانات ہیں وہ اس کے اندر شامل ہیں۔ میں بتانا چاہتا ہوں کہ مکان نمبر ۱۹ شامل ہے ۲۰ اور ۲۱ شامل نہیں ہے کیونکہ اس میں مسلمان رہتے ہیں۔ مکان نمبر ۲۲ شامل ہے کیونکہ نان مسلم رہتے ہیں لیکن ۲۳ شامل نہیں ہے۔ اس کے بعد مکان نمبر ۲۴ سے لے کر ۲۹ تک کا یہ حال ہے کہ ۲۴ شامل ہے ۲۵ سے ۲۹ تک غائب ہے۔ یہ اس کانسٹی ٹویینسی کا حال ہے۔ اسی طرح سے ۵۱ کا بھی یہی حال ہے۔ اور ۵۱ کے بعد ۵۲ میں بھی اسی طرح سے ہے۔ اس کے بعد اور کانسٹی ٹیونسی ہیں جنکا نمبر ہے ۵۸-۵۹-۶۹-۷۰-۸۰- اور ۸۲۔ میں ایک مثال دیتا ہوں ۶۹ سیلم پور ایکسٹنشن میں ۵۸ نمبر کی

انکی پارلیمنٹری کانسٹی ٹیونسی سے نکالے گئے ہیں میں نے یہ مسئلہ راجہ سبھا میں بھی اٹھایا تھا۔ مجھے دکھ ہے کہ چیر سے کلیرکٹ آدیش سرکار کو ہوگئے کہ اس تمام معاملے کی جانکاری کی جائے۔ اس کی انکوائری کی جائے۔ اور انکوائری کر کے ہاؤس میں اس کی رپورٹ دی جائے۔ یا اس پر اسٹیٹمینٹ دیا جائے یہ ریکارڈ سے چیک کیا جا سکتا ہے۔ محترمہ ڈپٹی چیرپرسن نے اس پر باقاعدہ آدیش جاری کیا۔ آج یہ آرڈر دئے ہوئے پانچ چھ دن ہوگئے ہیں۔ یہ سب بے ایمانی کی گئی ہے ناجائز اختیارات سے۔ آج لوگ مبارکباد پیش کر رہے ہیں۔ کہ دلی کے اندر پرامن الیکشن ہوا ہے۔ مبارکباد کے مستحق وہ لوگ ہیں۔ دس لاکھ لوگ میں کہتا ہوں کہ دس لاکھ لوگ، اگر سات کانسٹی ٹیونسیز سے ایک ایک لاکھ اور ڈیڑھ ڈیڑھ لاکھ لوگ نکالے گئے ہیں تو تقریباً ۱۰ لاکھ لوگوں کے نام نکالے گئے ہیں اور جن ۱۰ لاکھ لوگوں کے نام نکالے گئے ہیں انہوں نے کوئی جھگڑا نہیں کیا۔ کوئی فساد نہیں کیا]

اسٹاف نرس کے طور پر کام کر رہی ہے۔ اس کو الیکشن دفتر نے ۲۳-۸-۹۳ کو ایک خط بھیجا ہے جس کا نمبر ہے۔ ای۔ این۔ او۔/۳۶/۳۳/ٹی۔ ایس۔ ۸۳/ ۳۳-۳۷، آفس آف دی رجسٹریشن آفیسر سیلم پور اسمبلی کانسٹی ٹیونسی۔ اس میں کہا گیا ہے کہ آپکا فارم۔ ۶ ریجیکٹ کر دیا گیا ہے۔ اس لئے کہ آپ غیر ملکی ہیں۔ کیا الیکشن کمیشن کو اس طرح کا کوئی آرڈر دینے کا اختیار ہے؟ ڈیڑھ لاکھ لوگوں کے نام اس طرح سے کاٹ دئے گئے ہیں۔ اور انکو فارن نیشنل بنا دیا گیا ہے۔ اور یہ سب کرنے کے بعد یہ الیکشن کرائے گئے ہیں۔ شری جگدیش ٹائٹلر ہمارے سینٹرل کیبنیٹ منسٹر ہیں۔ انہوں نے باقاعدہ ایک پریس ریلیز دی ہے جس میں الزام لگایا گیا ہے کہ۔

The B.J.P. in connivance with some officers in the Election Commission struck out 25 per cent of the voters from the electoral roll of the Sadar Bazar Parliamentary constituency.

یعنی میں تو ایسٹ دلی کی بات کر رہا ہوں۔ جس میں جمنا پار کے ڈیڑھ لاکھ لوگوں کے نام نکال دئے گئے اور صدر کی کانسٹی ٹیونسی سے جگدیش ٹائٹلر صاحب نے تمام ڈاکومینٹس پیش کئے ہیں۔ اور پچھلے الیکٹرورل رول کو نکال کر کے ۱۹۹۱ کے، اس کی تلنا ۱۹۹۳ سے کی ہے۔ ایک لاکھ ۳۵ ہزار سے نام

اگر وہ چاہتے تو یہ الیکشن پرامن نہیں ہوتا۔ مبارک کے مستحق الیکشن کمیشن کے ذمہ دار نہیں ہیں، مبارکباد کے مستحق وہ 10 لاکھ ووٹرس ہیں جنکا نام نکالا گیا ہے اور جنہوں نے خاموشی سے کڑوا گھونٹ پی لیا۔ محترم، میں جاننا چاہتا ہوں کہ 10 لاکھ لوگوں کا نام نکالنے

†[ ] Transliteration in Arabic Script.

के बाद जो दिल्ली के अंदर इलैक्शन हुए हैं और जो असेंबली बैठी हुई, क्या आप उसको लीगल करार दे सकते हैं? दो लाख लोगों को लेकर हम लोग सुप्रीम कोर्ट में जाने की बात कह रहे थे तो कोर्ट ने बाकायदा आदेश दिया कि आप इलैक्शन कमीशन में जाओ और इलैक्शन कमीशन ने क्या किया? मैं जानना चाहता हूं कि यह पावर इलैक्शन कमीशन को कहां से दी है? आप जो यह बिल लाये हैं इनमें इन चीजों का अख्तियार नहीं है।

†[شری محمد افضل عرف م ۔ افضل "جاری": اگر وہ چاہتے تو یہ الیکشن پر امن نہیں ہوتا مبارک کے مستحق الیکشن کے ذمہ دار نہیں ہیں مبارکباد کے مستحق وہ ۱۰ لاکھ ووٹرس ہیں جنکا نام نکالا گیا ہے اور جنہوں نے خاموشی سے کڑوا گھونٹ پی لیا ۔ محترم میں جاننا چاہتا ہوں کہ ۱۰ لاکھ لوگوں کا نام نکالنے کے بعد جو دلی کے اندر الیکشن ہوئے ہیں اور جو اسمبلی بیٹھی ہوئی ہے کیا آپ اسکو لیگل قرار دے سکتے ہیں ۔ دو لاکھ لوگوں کو لیکر ہم لوگ سپریم کورٹ میں جانے کی بات کر رہے تھے تو کورٹ نے باقائدہ آدیش دیا کہ آپ الیکشن کمیشن میں جاؤ ور الیکشن کمیشن نے کیا کیا ۔ میں جاننا چاہتا ہوں کہ یہ پاور الیکشن کمیشن کو کہاں سے دیگئی ہیں ۔ آپ یہ جو بل لائے ہیں انمیں ان چیزوں کا اختیار نہیں ہے ۔]

उपसभाध्यक्ष (श्री मोहम्मद सलीम) : 14 मिनट आपकी पार्टी के हैं और श्री राम जेठमलानी का नाम भी है। आप 8 मिनट बोल चुके हैं।

श्री मोहम्मद अफजल उर्फ मोम अफजल : मैं दो मिनट में खत्म कर रहा हूं।

मोहतरम, मैं सिर्फ यह जानना चाहता हूं कि यह जो आदेश इलैक्शन कमीशन ने जारी किया है यह उसने किस बुनियाद पर जारी किया है? क्या उसको यह अख्तियार है? ला मिनिस्टर साहब इसका जवाब दें। मैंने कोशिश की होम मिनिस्टर साहब से मालूम करने की कि उस आदेश का क्या हुआ जो यहां चेयर से हुआ था। होम मिनिस्टर साहब का कहना है कि यह काम ला मिनिस्ट्री का है। मैं नहीं जानता कि यह काम किसका है। मैं तो सिर्फ इतना जानना चाहता हूं कि जिन 10 लाख लोगों के नाम वोटर लिस्ट से निकाले गये हैं उन 10 लाख लोगों के नाम कब शामिल किये जायेंगे और यह बेइंसाफी कब खत्म करेंगे?

आखिर में मैं यह बात कहूंगा.. (**व्यवधान**).. असम में 30 लाख लोगों के नाम निकाले गये हैं। लेकिन जिस चीज के सबूत मेरे पास हैं– असम में तो 30 लाख लोगों के निकाले गये मैं इसकी ताईद करता हूं लेकिन इस वक्त मैं आपसे यह तबक्को करता हूं कि आप इलैक्शन कमीशन से पूछें कि उसने किस बुनियाद पर यह गैर कानूनी काम किया है। अगर इसका सबूत आप चाहेंगे तो मैं आपको पेश करने के लिये तैयार हूं।

मोहतरम, दूसरी बात मैं यह कहना चाहता हूं– मैं लॉ मिनिस्टर की तवज्जह इस ओर दिलाना चाहता हूं कि 8 दिसम्बर से लेकर 22 दिसम्बर तक फार्म-6 भरने का समय दिया गया है। इलैक्शन कमिश्नर साहब ने कहा कि रिवीजन किया जायगा। मैं नहीं जानता कि उनकी रिवीजन की डेफिनेशन क्या है? लेकिन अभी तक केवल 8–10 हजार फार्म ही जमा कर पाये हैं। इसलिये मैं आपसे गुजारिश करूंगा कि आप इलैक्शन कमीशन पर दबाव डालें या उनको इन्फार्म करें कि आपने इसमें ज्यादा वक्त नहीं दिया। यह 22 तारीख जो आखिरी दी है, इसको बढ़ाया जाये। अगर यह तारीख नहीं बढ़ायी गई और जायज हिन्दुस्तानियों को उनके हकों से

†[ ] Transliteration in Arabic Script.

महरूम किया जायेगा तो मैं इसके खिलाफ बाकायदा तहरीक चलाऊंगा और मैंने ऐलान किया है कि अगर कल शाम तक इसका ऐलान नहीं किया जाता तो मैं परसों दिल्ली में इलैक्शन कमिश्नर का घेराव करूंगा, वहां जाकर उनको काम नहीं करने दूंगा इस तरह से लाखों लोगों को उनके बुनियादी हक से महरूम नहीं होने दूंगा। मैं चाहता हूं कि ला मिनिस्टर इस पर गौर करें और इ सबरे में बिल के अंदर कोई ऐसा प्रोविजन भी डाल दें ताकि ऐसा नाजायज काम न हो सके। तारीफ के पुल बांधे जा रहे हैं इलैक्शन कमीशन के, लेकिन यह खास फिरके के लोगों के इलैक्टरोल को काटने की साजिश है। मैं नहीं चाहता हूं कि मैं ऐसा इल्जाम लगाऊं जो आमतौर पर बहुत से लोगों पर लगाया जाता है। अगर वे इस इल्जाम से बचना चाहते हैं तो वे इस नाइंसाफी को दूर करें और टोटली इसका रिवीजन करें जिनका वोटर लिस्ट से नाम निकाला गया है। यह एक सेंट्रल मिनिस्टर का इल्जाम है, यह मेरी बात नहीं है। मैं तो एक पार्टी से आया हुआ मेंबर आफ पालियामेंट हूं। मैंने जो चीज कही है वह अपनी जगह पर है। लेकिन अगर कोई केबिनेट मिनिस्टर कोई बात कहें और वह दिल्ली के इलैक्शन आफिस पर यह इल्जाम लगाये कि वह भारतीय जनता पार्टी का दफ्तर बन गया है और वहां बैठे हुए लोग एक तरफ तो गवर्नमेंट आफ इंडिया से तनख्वाह ले रहे हैं और दूसरी तरफ भारतीय जनता पार्टी के इशारों पर सारा काम कर रहे हैं तो इसको रोकना चाहिये और इसको रोकने के लिये शेषन साहब को फौरी तौर पर मैदान में आकर काम करना चाहिए।

†[श्री محمد افضل عرف م۔ افضل: میں دو منٹ میں ختم کر رہا ہوں۔ محترم میں صرف یہ جاننا چاہتا ہوں کہ یہ جو آدیش الیکشن کمیشن نے جاری کیا ہے یہ اس نے کس بنیاد پر جاری کیا ہے۔ کیا اس کو یہ اختیار ہے۔ لا منسٹر صاحب اس کا جواب دیں۔ میں نے کوشش کی ہوم منسٹر صاحب سے معلوم کرنے کی کہ اس آدیش کا کیا ہوا جو یہاں چیر سے ہوا تھا۔ ہوم منسٹر صاحب کا کہنا ہے کہ یہ کام لا منسٹری کا ہے۔ میں نہیں جانتا کہ یہ کام کس کا ہے۔ میں تو صرف اتنا جاننا چاہتا ہوں کہ جن ۱۰ لاکھ لوگوں کے نام ووٹر لسٹ سے نکالے گئے ہیں ان ۱۰ لاکھ لوگوں کے نام کب شامل کئے جائینگے اور یہ بے انصافی کب ختم کرینگے؟

آخر میں میں یہ بات کہونگا..... "مداخلت"..... آسام میں ۳۰ لاکھ لوگوں کے نام نکالے گئے ہیں لیکن جس چیز کے ثبوت میرے پاس ہیں آسام میں تو ۳۰ لاکھ لوگوں کے نکالے گئے میں اس کی تائید کرتا ہوں لیکن اس وقت میں آپ سے یہ توقع کرتا ہوں کہ آپ الیکشن کمیشن سے پوچھیں کہ اس نے کس بنیاد پر یہ غیر قانونی کام کیا ہے۔ اگر اس کا ثبوت آپ چاہیں گے تو میں آپ کو پیش کرنے کے لئے تیار ہوں۔

محترم۔ دوسری بات میں یہ کہنا چاہتا ہوں۔ میں لا منسٹر کی توجہ اس طرف دلانا چاہتا ہوں کہ ۸ دسمبر سے لیکر ۲۲ دسمبر تک فارم ۶ بھرنے کا موقع دیا گیا ہے۔ الیکشن کمشنر

†[ ] Transliteration in Arabic Script.

ایسا کوئی الزام لگاؤں جو عام طور پر بہت سے لوگوں پر لگایا جاتا ہے۔ اگر وہ اس الزام سے بچنا چاہتے ہیں تو وہ اس نا انصافی کو دور کریں اور ٹوٹلی اس کا رویزن کریں جن کا ووٹر لسٹ سے نام نکالا گیا ہے یہ ایک سینٹرل منسٹر کا الزام ہے یہ میری بات نہیں ہے۔ میں تو ایک پارٹی سے آیا ہوا ممبر آف پارلیمنٹ ہوں۔ میں نے جو چیز کہی ہے وہ اپنی جگہ پر ہے۔ لیکن اگر کوئی کیبینیٹ منسٹر کوئی بات کہے اور وہ دلی کے الیکشن کمشنر کے آفس پر یہ الزام لگائے کہ وہ بھارتیہ جنتا پارٹی کا دفتر بن گیا ہے اور وہاں بیٹھے ہوئے لوگ ایک طرف تو گورنمنٹ آف انڈیا سے تنخواہ لے رہے ہیں اور دوسری طرف بھارتیہ جنتا پارٹی کے اشاروں پر کام کر رہے ہیں تو اس کو روکنا چاہئے اور اس کو دیکھنے کے لئے شیشن صاحب کو فوری طور پر میدان میں آنا چاہئے۔]

श्री जगदीश प्रसाद माथुर : मैं बा.जे.पा. के बारे में कुछ नहीं कह रहा हूं। लेकिन यह कहना चाहता हूं कि इलेक्शन कमीशन एक विशेष पार्टी का दफ्तर बन गया है, ऐसा आरोप इलेक्शन कमीशन पर लगाना गलत है इसको डिलीट करना चाहिये। यह परंपरा के खिलाफ है कि इस प्रकार का सीधा आरोप इलेक्शन कमीशन पर लगाया जाये। हम कितना भी क्रिटिसाइज करें उसके प्रोसीजर को

صاحب نے کہا ہے کہ رویزن کیا جائے گا۔ میں نہیں جانتا کہ ان کی رویزن کی ڈیفینیشن کیا ہے۔ لیکن ابھی تک کیول ۱-۸ ہزار فارم ہی جمع کر پائے ہیں۔ اس لئے میں آپ سے گذارش کرونگا کہ آپ الیکشن کمیشن پر دباؤ ڈالیں یا ان کو انفارم کریں کہ آپ نے اس میں زیادہ وقت نہیں دیا۔ یہ ۲۲ تاریخ جو آخری دی ہے اس کو بڑھایا جائے۔ اگر یہ تاریخ نہیں بڑھائی گئی اور جائز ہندوستانیوں کو ان کے حقوق سے محروم کیا جائے گا تو میں اس کے خلاف با قاعدہ تحریک چلاؤنگا اور میں نے اعلان کیا ہے کہ اگر کل شام تک اس کا اعلان نہیں کیا جاتا تو میں پرسوں دلی میں الیکشن کمشنر کا گھیراؤ کرونگا۔ وہاں جاکر ان کو کام نہیں کرنے دونگا۔ اس طرح سے لاکھوں لوگوں کو ان کے بنیادی حق سے محروم نہیں ہونے دونگا۔ میں چاہتا ہوں کہ لا منسٹر اس پر غور کرینگے اور اس بارے میں بل کے اندر کوئی ایسا پرووِیزن بھی ڈال دیں تاکہ ایسا ناجائز کام نہ ہو سکے۔ تعریف کے پل باندھے جارہے ہیں الیکشن کمیشن کے لیکن یہ خاص فرقہ کے لوگوں کے الیکٹورل کو کاٹنے کی سازش ہے۔ میں نہیں چاہتا کہ

लेकिन इस तरह नहीं कर सकते। इसलिये ऐसा वाक्य निकाल देना चाहिये। श्री मोहम्मद अफजल उर्फ शीम अफजल : मैंने यह आरोप नहीं लगाया। कैबिनेट मिनिस्टर ने आरोप लगाया है और सारे अखबारों में छपा है।

†[श्री मोहम्मद अफजल उर्फ शीम अफजल : मैंने यह आरोप नहीं लगाया। कैबिनेट मिनिस्टर ने आरोप लगाया है और सारे अखबारों में छपा है।]

श्री जगदीश प्रसाद माथुर : कहना नहीं चाहता लेकिन कह दिया। मैं कोई इलेक्शन कमीशन का संरक्षक नहीं बन रहा हूं लेकिन फिर भी यह प्रोसीजर है अगर मैं कहूं कि मैं कहना तो नहीं चाहता लेकिन आप बेहद नासमझ आदमी हैं। तो क्या बात हुई ? कह तो दिया।

चौधरी हरि सिंह (उत्तर प्रदेश) : महोदय, सदन चीफ इलेक्शन कमिश्नर एंड अदर इलेक्शन कमिश्नर्स कंडीशंस आफ सर्विस के बारे में जो अध्यादेश जारी हुआ था, उसको बिल के रूप में लाकर, उसको कानून बनाये जाने के संबंध में इस पर विचार हो रहा है। यह जो बिल है यह बहुत ही सामयिक है और मुझे यह कहने में कोई हिचक नहीं है कि विरोधी दल के लोग बराबर, लगातार यह मांग कर रहे थे कि कमीशन को मल्टीपल यानी कई सदस्यों का होना चाहिये। मैं अपनी कांग्रेस पार्टी को केन्द्रीय सरकार को बधाई देना चाहता हूं कि उन्होंने विरोधी दलों की ओर से लगातार जो पार्लियामेंट में मांग चली आ रही थी, उसको स्वीकार कर लिया और इसके लिए अध्यादेश जारी किया। यह ठीक किया इसमें बुनियादी मुद्दा यह उठता है कि एक आदमी कितना भी अकलमंद क्यों न हो, कितना भी बुद्धिमान क्यों न हो, कितना भी एक्सपीरियंस्ड क्यों न हो, उसको कितना भी थ्योरेटिकल और प्रेक्टीकल नोलेज हो, जब तक वह इन्सान है, वह गलती का पुतला है, उससे गलती हो सकती है। शास्त्रों में भी कहा गया है और वैसे भी जो काम समझ बूझ करके सलाह मशविरा कर के होता है, वह बिल्कुल परफैक्टनेस के पास पहुंच जाता है। मैं कहना चाहता हूं कि एक आदमी से बेहतर दो-तीन आदमी होते हैं। कमीशन को तीन सदस्यीय बना कर के सरकार ने अच्छा काम किया है। अब इसमें सवाल यह पैदा होता है कि यह काम राष्ट्रपति जी ने संविधान के अनुसार किया है। हमारे संविधान में लिखा हुआ है कि यह जो कमीशन है, यह कई सदस्यों का भी हो सकता है। यह संविधान में लिखा हुआ है। यह उसी के अनुसार ही हुआ है।

यह संविधान को ताक पर रख कर नहीं हुआ है। सवाल यह पैदा होता है कि कमीशन के सदस्य जो दूसरे बने हैं, उनकी सर्विस कंडीशंस जो कमिश्नर को हुआ करती है उसी के बराबर हो या अलग से रखी जाए, उसको सबोर्डिनेट या मातहत रखा जाए या सलाहकार मात्र रखा जाए, मैं इससे एग्री नहीं करता हूं। मैं यह मानता हूं कि कमीशन में जितने भी सदस्य हैं उनका स्टेटस बराबर होना चाहिये, उनको बराबर के इमालुमेंट्स, बराबर की तनख्वाह, उनकी ही रिस्पेक्ट देनी चाहिये, उनके डिसिजन को माना जाना चाहिए, उनकी महत्ता मानी जानी चाहिये। सुप्रीम कोर्ट की मिसाल देना चाहता हूं। मंत्री महोदय खुद ला मिनिस्टर हैं, हिन्दुस्तान के जानेमाने प्रैक्टिसिंग लायर हैं, सुप्रीम कोर्ट में मेजोरिटी डिसिजन होते हैं। आप जानते हैं। कि इलेक्शन कमीशन में भी बहुत सी नाटी प्रोब्लम्स आएंगी, गुत्थियां आएंगी, उनको मिल जुल कर के जो मेजोरिटी फैसला करे वह फैसला माना जाना चाहिये और उसको लागू किया जाना चाहिये। एक ही आदमी को सर्वोच्च सत्ता, शक्ति देना मुनासिब नहीं है। यह तो उसी तरह से जैसे ब्रिटिश कैबीनेट के बारे में कहा जाता है कि वहां का प्राइम मिनिस्टर फर्स्ट अमंग इक्वल्स है। कमीशन के चेयरमन आप बनाना चाहते हैं तो वे रहें और रहते भी हैं तो उनको औरों के बराबर रहना चाहिये उनमें और दूसरे सदस्यों में कोई फर्क नहीं होना चाहिये। उनका स्टेट्स, सहूलियतें, रहन-सहन की सरकार से

†[ ] Transliteration in Arabic Script.

सुविधाएं जो मिलती हैं, उनकी अथारिटी और अधिकार तथा उनके आर्डर्ज की पालना में कोई भी भेद नहीं होना चाहिये, फर्क नहीं होना चाहिये। सर्विस कंडीशस बिल्कुल परफेक्ट बना देनी चाहिये। इस सिलसिले में आपको फिर से अध्यादेश लाने या कानून बनाने की आवश्यकता पड़ती है तो फिर इसको आप स्टडी कर लीजिये। फिर स्टडी करके इसको आप ला सकते हैं। कोई फर्क नहीं पड़ता है। एक आदमी के बारे में मुझे एक मिसाल याद आती है जो मैंने कभी पढ़ी थी। सर आइजक न्यूटन एक जाने-माने वैज्ञानिक थे। उनके घर में दो बिल्लियां आया करती थीं। एक छोटी थी और एक बड़ी थी। एक जरा ज्यादा मोटी थी। सर आइजक न्यूटन साहब कितने बड़े विद्वान थे, बुद्धि के देवता थे, उन्होंने अपने नौकर को हुक्म दिया कि दो बिल्लियों के लिए जो घर में आती हैं आसानी से आ सकें इसलिए दो दरवाजे बना दिये जाएं।

श्रीमती सरला माहेश्वरी (पश्चिमी बंगाल): दो नहीं तीन बिल्लियां थीं। **(व्यवधान)**

चौधरी हरि सिंह: हमने तो दो पढ़ी हैं, तीन आपको मालूम होगा, हमने दो पढ़ी हैं (व्यवधान) चलो हम तीन ही मान लेते हैं। खैर इससे मेरी बात को और भी बल मिला है। तो इतने बड़े विद्वान होने के बावजूद भी जबकि एक बड़े सुराख में से तीनों बिल्लियों आसानी से निकल सकती हैं, उन्होंने यह हुक्म दिया कि तीन सुराख बना दिये जाएं जिससे तीनों बिल्लियां आसानी से आती-जाती रहें। यह आप जानते हैं जितने बड़े आदमी होते हैं उतनी बड़ी गलती भी करते हैं। बड़ा आदमी जो कहा जाता है उसका घर, रहन सहन का स्तर भी बड़ा होता है। आपने गिद्ध को देखा होगा, ईगल का घोंसला बड़ी ऊंचाई पर होता है। वह सारी चीजों को देख नहीं पाता है। इसका मतलब यह होता है कि जो हैड होता है वह आम तौर पर प्रोब्लम्स की बारीकी में डिटेल में जा नहीं पाता है। इसलिए तीन चार सदस्य अगर रहेंगे तो थ्रेड बेयर हर आस्पेक्ट, हर पहलू, हर नजर, हर दृष्टिकोण से देखेंगे – कुछ पोलिटिकल भी होगा, कुछ थ्यौरेटिकल होगा, कुछ उनका एक्सपीरियंस होगा। यह सब मिलाकर एक नया स्वरूप आ जायेगा। मुझे खुशी है कि जो मेम्बर मनोनीत किये गये हैं, माननीय मंत्री जी ने बड़ी सहूलियत के साथ कराये हैं। वे सब सेक्रेट्रीज के लेविल के हैं बड़े एक्सपीरियंस्ड सेक्रेट्रीज हैं, आई. ए. एस. के हैं। पुराने एक्सपीरियंस्ड आदमी है। क्वालीफिकेशन, एक्सपीरियंस की किसी मायने में उनमें कोई कमी नहीं है।

जो कमिश्नर हैं, इंडिपेंडेंट आटोनामस बार्डी हैं, रिस्पेक्टेड हैं। उसके लिए जैसे आदमियों की आवश्यकता थी वैसे ही आदमी नियुक्त किये गये हैं। इसके लिए भी मैं सरकार को बधाई देना चाहता हूं। यह कोई खिलवाड़ नहीं किया गया है। इनकी महत्ता, इनकी अहमियत और इस काम की जितनी अहमियत है उसके लिहाज से ये मनोनीत किये गये हैं। यह बड़ी प्रशंसा की बात है।

यह जो बिल है इसको तो पास करना ही चाहिए। पास होगा ही इसलिए कि इससे अच्छा सुझाव क्या हो सकता है। मैं इसी मौके पर दो तीन बातें कहना चाहता हूं। हमारे साथी कह रहे थे कि इलेक्शन, चुनाव इस बार अच्छे नहीं हुए। मैं कहना चाहता हूं कि इस बार चुनाव बहुत अच्छे हुए। बड़ी सहूलियत के साथ हुए। इसका सबूत यह है कि कितने बड़े पैमाने पर परसेंटेज आफ वोट पड़ा। इससे अंदाजा लगा सकते हैं कि कितना स्मूथली इलेक्शन की फंक्शनिंग हुई, कास्टिंग आफ वोट की हुई। यह अपने में एक बड़ा प्रशंसनीय पहलू है। इलेक्शन कमीशन की ये सारी चीजें थीं हालांकि इलेक्शन के दौरान इलेक्शन कमीशन, के नये प्राब्लम्स आये। रोज स्टेटमेंट, बयान, कोर्ट-कचेहरी जाने क्या-क्या चलता रहता था। दो चीजें डाइमेट्रिकली आपोज्ड चल रही थी। इलेक्शन की फंक्शनिंग भी चल रही थी, फील्ड के अन्दर, पोलिंग स्टेशन्स के अंदर, दूसरा कोर्ट में भी, स्टेटमेंट्स में भी, आपस में कमीशन के मेम्बर्स में

झगड़ेबाजी भी चल रही थी। यह सब होने के बाद भी इलेक्शन का काम बड़ी स्मूथली चला, बहुत अच्छा चला। यह काबिले तारीफ है। कहते हैं कि बड़े आदमी जब लड़ते हैं तो समझदारी से लड़ते हैं। लड़ाई भी हुई लेकिन काम सफर नहीं होने दिया। इसलिए कहते हैं कि जब बड़े लोग, अनुभवी लोग, विद्वान लोग युद्ध करते हैं तो जो मूल है उसको बरबाद नहीं होने देते हैं।

इलेक्शन के दौरान जो अच्छा काम हुआ, फंक्शनिंग हुई मैं चाहता हूं कि इस तरह के काम में और सुधार हो इसलिए एक-दो और सुझाव देना चाहता हूं इस मौके पर। अब इलेक्शन में जो इंडिपेंडेंट कैन्डीडेट हो जाते हैं इसमें एक नयी बीमारी आ गयी है माननीय मंत्री जी और वह यह है कि जो पैसे वाले कैन्डीडेट्स हैं वे अपने अपने काउंटिंग एजेंट्स टेबुल पर आ जाते हैं। ये इलेक्शन नहीं लड़ते हैं, कोई काम भी नहीं करते हैं। महज इसलिए वे कैन्डीडेट बन जाते हैं, एक हजार, दो हजार रुपये या दि सिक्योरिटी फीस देकर जिससे निशान मिल जाता है कि काउंटिंग के वक्त में वे एक सीरियस कैन्डीडेट के लिए के लिए हेल्पफुल रहें। अब यह जो बीमारी है इसको कैसे दूर करें। इसका बैरोमीटर कहां से आयेगा। कैसे इनको वीड आउट करेंगे। यह प्राब्लम अपने में है। इसका कुछ न कुछ निराकरण करना चाहिए—या तो यह है कि अगर उनको वोट का परसेंटेज कम मिलता है तो वे कभी इस साल तक कैन्डीडेट न हों या कुछ न कुछ रास्ता ऐसा निकालना चाहिए के लिये इंडिपेंडेंट कैन्डीडेट या ऐसे एजेंट जो सिर्फ काउंटिंग एजेंट बनने के लिए कैन्डीडेट बनते हैं और बनाये जाते हैं ये खत्म हो जाएं।

इलेक्शन में जो वोट कास्टिंग के लिए आइडेंटिटी कार्ड या स्लिप दी जाती है यह बड़ी हेल्पफुल होती है। हमने देखा कि जिस कैन्डीडेट की आइडेंटिटी स्लिप मौजद थी वहां पर ज्यादा परसेंटेज आफ वोटिंग हुआ और तेजी से हुआ। लोगों बड़ी दिलचस्पी ली। घर में पर्चियां गयीं। लोग कहते थे पर्ची आ गयी है तो अब कोई दिक्कत नहीं पड़ेगी। माननीय मंत्री जी मैं कहता हूं कि हर इंडिवीजुअल कैन्डीडेट का इस पर बहुत रुपया खर्च होता है-जो सीरियस कैन्डीडेट होते हैं। हर एक नहीं करता है लेकिन जो पार्टी के सीरियस कैन्डीडेट्स होते हैं जो कन्टेसटेंट्डस होते हैं ये सब पर्चियां बनवाते हैं। इसमें लाखों रुपया चला जाता है। पर्चियों में कभी-कभी सही रूप से नाम नहीं आ पाते हैं। मेरा आपसे आग्रह है कि कैन्डीडेट्स से चाहे आप कोई फीस रखवा लीजिए लेकिन सरकार या इलेक्शन कमीशन अपने तौर पर आइडेंटिटी स्लिप बनाकर घर घर पहुंचाये। इससे खर्च भी कम हो जाएगा और इलेक्शन में वोटिंग का का जो परसेंटेज है वह झटे बढ़ेगा। इसके लिए इंडिवीजुअल्स को बनाने की जरूरत नहीं है बल्कि खुद कमीशन इनको बनवा ले और बंटवा ले। गांव गांव में मुकर्रर करे और जहां के गांव के प्रधान के जरिये बंटवाये या कोई न कोई ऐसी मशीन या ऐसा अपरेटस निकाले कि कैन्डीडेट का जो लाखों रुपया बरबाद होता है और बड़ा पैसा लगता है बंटवाने में भी तैयार करवाने में भी दुनिया भर की मुसीबतें खड़ी रहती हैं, प्रेस में छपता नहीं है, छोटी-छोटी पर्चियां होती हैं, कई प्रेस वाले लेने को तैयार नहीं होते हैं--वह न हो। कैन्डीडेट्स के सामने जो बड़ा मेन्टल टार्चर रहता है वह तो वही जानता है जिसने कभी लोकसभा का चुनाव लड़ा हो।

असेंबली का चुनाव लड़ा हो, वह यह जानता है। हम तो असेंबली का चुनाव भी लड़ चुके हैं और जीत भी चुके हैं। पार्लियामेंट का लोक सभा का भी चुनाव लड़ चुके हैं और जीत चुके हैं तथा हार भी चुके हैं। यह सब मुसीबत पर्चियों की है। इसका भी माननीय मंत्री जो कोई उपाय निकाल दें। तो बड़ा अच्छा है।

तीसरी जो खर्चे का बात है, टी. एन. शेषन से बहुत लोग नाराज हैं. लेकिन उनकी दो-तीन चीजों से मैं कायल हूं और मैं उनको काबिले तारीफ व्यक्ति मानता हूं। एक तो उनका इस धमकी से कि अगर तुम गड़-बड़ करोगे तो इलैक्शन कैंसल हो जाएगा। इसने बड़ा जादू का सा काम किया है। इसको कुछ भी कहते रहिए थ्योरेटिकल आस्पैक्ट, वह थ्योरी वाले यानी क्या-क्या निकालते रहते हैं बैठे-बैठे ऐसे सोल्यूशन बहुत हैं हमारे पोलिटिक्स में और प्रैक्टीकल पोलिटीशन जो फील्ड में जाते हैं, मैदान में जाते हैं, जो धूल-डस्ट खाते हैं और खरी-खोटी देहात में सुनते हैं, ऐसे पोलिटीशन बहुत कम हैं। लेकिन सब जो गणित लड़ाते रहते हैं ऐसे ही बैठे-बैठे जो उनको थ्योरी सारे अखबारों में निकलती रहती है, मैगजीन में निकलती हैं, टेलीविजन-रेडियो में भी आता रहता है। सारे मीडिया में रहता है, लेकिन उसका प्रैक्टीकल आस्पैक्ट बड़ा कम होता है। तो मैं यह जो कह रहा था खर्चे के बारे में कि इतना करोड़ों तक का, एक-एक असेंबली का, ऐसा भी मिसाल मिलने में, कोई ढूंढने में तो जरूर मिल जाएगी जिनका 50-50, 40-40, 20-20 लाख की बात तो छोड़ दीजिए कितना रुपया खर्च हो जाता है और उनके सामने दूसरे कैंडीडेट्स का जमना मुश्किल हो जाता है। हर चौराहे पर, हर उस जगह जो मानो यह कहते हैं कि खर्च कैसे मालूम पड़े, मेरा बड़ा सीधा सा तरीका है। मैं कहना चाहता हूं कि उसके जो दीवारों पर लिखे हुए हैं उनको काउंट कर लीजिए। जो उनके बड़े कटआउट लगे हैं, उनको देख लीजिएगा। जो पब्लिसिटी के दूसरे पोस्टर हैं उनके नमूने हैं वे कोलैक्ट कर लीजिए। कौन सा मुश्किल पड़ता है। एक स्पेसिफिक केस बना लीजिए। उसे देखिए तो इससे साफ मालूम पड़ जाएगा कि वह कितना हिसाब बताता है। पोस्टर कितने छपे हैं, किस वैरायटी के हैं और कितने छपे हैं। इससे मालूम पड़ जाएगा कि इलेक्शन का कितना खर्चा है। अनाप-शनाप की जो परंपरा है और खराबे तो कुछ कम होती जा रही हैं, लेकिन यह बहुत बढ़ रहा है। इसको कम करना चाहिए। इलैक्शन के दिनों में शराब पर पाबंदी रही। सरकारों ने लगाई, अच्छा किया। यह एक कल भी बहुत स्ट्रिक्टली फालोअप करना चाहिए।

मैं इस बिल का समर्थन करने से पहले एक बात और कहना चाहता हूं कि इलैक्शन का जो हमारा दफ्तर है, कमीशन के दफ्तर यू. पी. स्टेट में हैं डिस्ट्रिक्ट लैवल पर यह रेगुलर परमानेंट बॉडी दफ्तर हो गए। अब की बार मेरा जो प्रैक्टीकल एक्सपीरिएंस है, मैं तो कैंडीडेट नहीं था लेकिन मैंने कैंडीडेटस का बड़ा सपोर्ट किया और एक्टिवली मैंने काम किया। वह तैयार नहीं मालूम पड़ते हैं। अब मामूली अमेंडमेंट की जैसे हो लिस्ट आने की बात होती है वह जो बिल्कुल एवरेडी रहनी चाहिए अलमारी रखे-रखे यह वोटर लिस्ट है, ये पोलिंग स्टेशंस के नाम हैं। पिछले साल के ही रखे हुए हैं। अब तो कंप्यूटराइज्ड भी आ गया दफ्तर में जाइए कुछ पता ही नहीं लग पा रहा है। मैं ऐसी ही एक-आध मिसाल बता सकता हूं। जहां वोटिंग कल 9 बजे होने वाली है, आठ बजे, सात बजे शुरू होने वाली है और रात के तीन बजे तक पोलिंग का सामान ही नहीं दिया गया। कितनी बदइंतजामी रही। इसकी वजह क्या है। यह भी एक स्पेशलाइज्ड जॉब है इलैक्शन का डिस्ट्रिक्ट लैवल का मैनेज करना। अधिकारी जिससे नाराज हुआ कि डिस्ट्रिक्ट मैजिस्ट्रेट उसको बना दिया। जिले में दो ए. डी. एम. होते हैं देखा कि यह अच्छा नहीं है, मन मुताबिक नहीं है, उसको बना दिया। होना क्या चाहिए जो मेरा सुझाव है कि इलैक्शन भी यहां डेमोक्रेसी आफ इंडिया का इसैंशल पार्ट हो गया है। जैसे दूसरे इसैंशल पार्टस हैं वैसे ही इलैक्शन का भी मांगे। इसके लिए भी बाकायदा ट्रेनिंगशुदा आफिसर रहने चाहिए। कुछ आफिसर्स को चुन-चुन करके इस काम के लिए ट्रेंड रखना चाहिए। और पहले से ही ट्रेंड रखना चाहिए उनको जानना चाहिए कि चुनाव में क्या-क्या प्राब्लम्ज आयेंगी और उनको कैसे हल करना है। यह कैसे करना है, वह कैसे करना है। जितनी चुनाव में प्राब्लम्ज आती हैं इसके लिए भी पहले से अगर बैकग्राउंड नहीं है, उसकी हिम्मत नहीं, उसकी नालेज नहीं है, तो वह मैनेज नहीं कर पाता। इसलिए माननीय मंत्री जी मेरा यह कहना है कि इस तरह के आफिसरों की ट्रेनिंग भी बहुत आवश्यक है।

इन्हीं अल्फाज के साथ, मैंने थोड़ी सी जो कुछ भी बातें कही हैं, उनके साथ मैं इस बिल का बहुत

हो तहेदिल से, दिल के दिल से मो मैं इसका समर्थन करता हूं। धन्यवाद।

SHRI RAM JETHMALANI (Karnataka) : I am emboldened to speak and oppose the approval of this Ordinance and support the motion of disapproval on two grounds, which I hope Mr. Bhardwaj, the hon. Minister, who is present here, will very carefully ponder about.

Last time when Mr. Bhardwaj spoke in my presence, he was good enough to tell this House that he will treat the views of the Opposition with some amount of respect. I hope at least now he finds that his view is wrong. It is never too late to admit one's mistake and change right course.

Sir, I do not wish to go into the controversial question, whether there should be a single-member commission or a multi-member commission. On that there can be a very serious controversy. Frankly, I cannot say that I have made up my mind. Therefore, I do not wish to go into that question at all. But why I am seeking disapproval of this Ordinance is that, first of all, the Ordinance in this case was an abuse of the Ordinance making power. Mr. Viren Shah has pointed out that the Constitution entrusts the power of legislation to Parliament. It is the Parliament which is sovereign. Legislation is the business of Parliament. It is a very rare situation in which the Executive exercises legislative power. Ordinance making is an aberration which is tolerated in the Constitution as a matter of very serious emergency where almost heavens might fall and things might go out of hand and then the President intervenes and issues an Ordinance on the advice of the Executive.

Now, Sir, right from the time that the Constitution came into force, we have had a situation of a single-member commission and the single Chief Election Commissioner has satisfactorily discharged the duties of his office. There was a short experiment made in 1989 when they tried to create by notification a three-member commission. But the experiment was abandoned within four months. The experiment was given up and we reversed back to the system of a single-member commission of the Chief Election Commissioner. Now, Sir when for 50 years the Constitution like that has prevailed, how does it become necessary to legislate by an Ordinance? You can certainly wait for Parliament to assemble, introduce a proper Bill and seek the opinion of the House. The manner in which this Ordinance was issued is an invasion of the sovereignty and dignity of this Parliament, under circumstances which are not authorised by the Constitution, and, therefore, on the ground that this should not become an evil precedent for the future, I invite the disapproval of this House and the support of the Members of the Treasury Benches because they should not be a party to the setting up of an evil precedent.

Then, Sir, the second point which I wish to briefly mention which Mr. Bhardwaj will kindly take note of is that right or wrong Dhanoa's case of 1991 was decided by, I believe, a Bench of two Judges but whether it was decided by a Bench of two Judges or five Judges or eleven Judges, it is a judgement of the Supreme Court of India. The Supreme Court construing article 324 has come to the conclusion that the Commissioners who are appointed are appointed for the purpose of assisting the Chief Election Commissioner; and you cannot impose upon the rule of a unanimous decision. Their powers have to be now changed, if at all, by a proper Constitutional amendment because the Ordinance which has been issued and the Bill which is now seeking to perpetuate the Ordinance says that there shall be a rule of majority. In other words, the two shall be able to overrule the Chief Election Commissioner. But the present view of the Supreme Court is that this is not possible. The two Commissioners are in no position to overrule the Chief Election Commissioner and, in fact, the Chief Election Commissioner is entitled and has the Constitutional right to override the advice of the remaining two Commissioners. Now this judgement of the Supreme Court might be wrong. But that

judgement can only be reversed by a larger Bench or by a Constitutional amendment. You cannot do it by a Parliamentary statute.

In fact, Sir, about a few days ago, I think it was almost last week that the two-Judge Bench has referred this issue to a larger Constitutional Bench. The larger Constitutional Bench may well decide that the earlier view was wrong in which event you are at liberty to press forward with this Bill and perhaps you will have not only the support of your own party but some Members on this side might also support the principles which I have said is a very controversial measure whether you should have a multi-member commission and so on.

But, Sir, if you seek to pass this Bill today, then you are really trying to slap the Supreme Court in its face by telling them that we will go ahead with the law though your view may be to the contrary. Don't do that. It is an evil precedent. Our Supreme Court is one institution where the highest integrity and honesty fortunately still prevails. Don't do anything to bring down the dignity of that institution because without that institution maintaining its dignity and sovereignty in its prestine form, undiluted, undiminished and untarnished, the rule of law in this country cannot go on. Nothing prevents the hon. Minister from not pressing the passing of this Bill today or I suggest, as Malaviya Ji has moved an amendment that this matter be referred to a Select Committee, let it go to a Select Committee. In the mean time, if the Constitution Bench of the Supreme Court decides that the earlier view was wrong, then your Bill is perfectly in order and perhaps we will be able to persuade those who are opposing it, to pass it unanimously. But at the moment, on both the grounds that you have first come to this House with a fait accompli like a bad Ordinance and then you are trying to fly in the face of the Supreme Court judgement and trying to insult it, I suggest that the House should disapprove of the motion. (Ends)

SHRI SUKOMAL SEN (West Bengal): Sir, I rise to oppose the Disapproval motion and support the Bill. Sir, it is a long pending question. In fact, if you go through the debate that took place in the Constitution Assembly, at that time itself the Constitution-makers were thinking about the advisability of a one-man Commission, about its competence, about its fairness and Dr. Ambedkar himself had said that it was causing him headache and he told the Constituent Assembly that it would cause headache to Parliament also. Sir, I start with what Dr. Ambedkar said. He said and I quote: "My provision does contain nothing to provide against the nomination of an unfit person to the post of Chief Election Commissioner or other Election Commissioners. I do want to confess that these are very important questions and it has given me a great deal of headache and I have no doubt that it is going to give a great deal of headache in future also". This was the position at that time and that headache is still continuing. Particularly the events that took place during the last few months or which are taking place till now, have made our headache really acute. A few weeks ago the hideous and most malicious spetacle that the entire country witnessed in the Nirvachan Sadan, gave an impression that unless the whole gamut of the question is reconsidered in Parliament and a firm decision is taken, this malady that has affected the Nirvachan Sadan cannot be treated well and cannot be removed. So the question is, all our institutions in national life and the civil life are one by one being debased, and defined. It was one institution which since the passing of the Constitution functioned well and nobody had a grouse against it. Sometimes, some complaints here and there were visible but on the whole it functioned efficiently. But what is happening today? In the present situation, this high office is also going to be debased and defined. Sir, an individual can commit errors an individual can work with wisdom also. But

where is the guarantee that one individual, vested with immense powers like control and superintendence of the elections of the country, elections which are the basis of the democracy of our country ....fairness in elections, proper subordinate legislations on which the entire democratic fabric of the country depends. If that high office behaves erratically for some time, I would say in a worse way, then what should we do ? The Parliament has the responsibility to see that things are rectified, because we are here to protect democracy. We are here to protect democracy. The Chief Election Commissioner's office is an office to protect and promote the democratic procedures of our country, to protect the democratic functioning of our country and to conduct free and fair elections in the country. But if that office behaves in a way which seeks to curb the democratic functioning, which seeks to vitiate the democratic process, then it is high time that Parliament should consider the entire gamut of the question and take a firm decision.

Sir, some Members may say that previously also—I would say, two years back —a three-member Commission was set up. Two members were added to the Chief Election Commissioner's office. Sir, that was also a sorry spectacle. Unfortunately, the ruling parties of the country sometimes act in such interest which hold their own political gains. If that is the end, then we must oppose it. That is why the manner in which two members were added to this Commission two years back, that could not be approved by many of us and that could not be approved by many of our countrymen. Ultimately, that decision had to be reversed when there was a change in Government. But, Sir, that instance cannot be cited today, that instance cannot be quoted today as the only relevant instance, that the three-member Commission would also face the same fate as it faced in 1991. No, Sir. This question was gone into previously also. In 1971, the then Speaker of Lok Sabha formed an all-party Committee to go into the matter when all these contentious issues arose, when all this noise, when all these complaints, all these outbursts were not visible. Even in 1971, the then Speaker of the Lok Sabha formed an all-party Committee to go into the matter. Sir, the all-party Committee earnestly recommended that there should be a three-member Commission, a multi-member Commission, to supervise, guide and control the elections of our country. Sir, 1971 is not comparable to 1991 or 1992 or 1993. It was comparatively a peaceful year when a lesser number of complaints arose in regard to the functioning of the Election Commission. Even at that time, the then Speaker of the Lok Sabha, in his own wisdom, formed an all-party Committee to go into the matter and that all-party Committee recommended to a multi-member Commission. And history cannot be forgotton. It cannot be forgotton that in 1971, the all party Committee recommended a multi-member Commission. It is all the more necessary, in 1193 when a sorry spectacle is being witnessed and so many complaints are coming up from all quarters of the country... *(Interruptions)*... Sir, only three minutes I have taken.

THE VICE-CHAIRMAN (SHRI MD. SALIM) : No, No : you have exhausted seven minutes.

SHRI G. SWAMINATHAN (Tamil Nadu) : Sir, I plead that the same leniency may be shown to us. Then, you should not say 'only three minutes and then you have to stop'.

SHRI SUKOMAL SEN : It is all the more necessary that a multi-member Commission should be set up today. Sir, what has happened, one after the other, is, we have found that for the last three years, particularly after the appointment of the present Chief Election Commissioner, the negative behaviour on behalf of the Election Commission has vitiated the entire election process. Sir, in 1991 when the elections were held in Assam, there was an order from the Election Commission that the entire electoral rolls of Upper Assam

had to be revised on the basis of 1966 rolls. Sir, on the basis of 1990 roll there was an election and that election was perfectly all right. Since some people have complained about outside infiltration the Election Commissioner issued orders that the entire roll has to be issued on the basis of 1966 roll. What was the result? Twenty-five lakhs of voters of a particular linguistic group and of a particular religious group have to be removed from the electoral roll. If this is the way of functioning of the Chief Election Commissioner then we have to see whether the wisdom of the Chief Election Commissioner, the one-man Election Commission, can be relied upon. When the case of Mr. Dhanoa went to the Supreme Court, the Supreme Court came out with a judgment. They also said that however wise one individual may be, he could not be depended upon in all matters. So, the judgment of the Supreme Court in the case of Dhanoa was in favour of a multi-member Commission. How the multi-member Commission should function, what the modus operandi should be, whether the decision should be a unanimous one or an individual decision, the Court looked into all these aspects and the Court clearly stated that in all such questions individual decision may not be possible. So, rules have to be framed and a statute has to be made as to how the decision should be taken, whether by majority or otherwise, by the Election Commission.

What happened two years back during the last Rajya Sabha elections in West Bengal and Gujarat? In the appointment of the Chief Electoral Officers the Chief Election Commissioner might have some say. What is the role of the Chief Electoral Officer of a particular State in regard to the Rajya Sabha Elections? Nothing. There is nothing. There is no electoral roll except the roll of the MLAs. Even then the elections were deferred in both the States. It caused much harm to the House and to those particular States. What was the reason? What was the validity for deferring the Rajya Sabha elections? The whole decision was taken by one man and he stopped the Rajya Sabha elections.

THE VICE-CHAIRMAN (SHRI MD. SALIM) : You have to conclude now.

SHRI SUKOMAL SEN : We find the Election Commission behaving in this way. Now the Chief Election Commissioner has ordered that by 1994 all voters have to be issued photo identity cards. The West Bengal Government has protested against this. Neither it is logistically feasible nor is it feasible from the point of funds. Huge funds are needed to provide photo identity cards to all voters of the country, forty crore voters of this country. If they are to be provided with identity cards how much money do we require? It is not logistically possible by this time. This is the order he has given. After the issuance of the Ordinance the Chief Election Commissioner has gone to the Supreme Court. The Supreme Court has come out with an interim judgment. Now it has again referred it to a Consitution Bench. I don't know what the Constitution Bench would say. So, I want the Government that if the decision of the Constitution Bench comes into conflict with the views of the Parliament, then the Government is left with no other alternative but to come with an amendment of the Constitution. The Parliament is supreme and the Parliament should assert it. In that case, the Government should be prepared and the Government should not run away. With these words, I support this Bill. (Ends).

THE VICE-CHAIRMAN (SHRI MD. SALIM) : Mr. V. Narayanasamy.

SHRI G. SWAMINATHAN: Sir, I am on a point of order.

THE VICE-CHAIRMAN (SHRI MD. SALIM) : What is your point of order?

SHRI G. SWAMINATHAN : When you called the name of Mr. V. Narayanasamy earlier, the hon. Member was not present in the House. Under the rules when a Member is not present when his name is

called, he is not again asked to speak. He will speak only at the end of the debate if there is time. That is the condition of the House.

THE VICE-CHAIRMAN (SHRI MD. SALIM) : There is no point of order. Only the order of the Speaker is now changed.

SHRI P. UPENDRA (Andhra Pradesh) : He should promise that he will not shout again.

THE VICE-CHAIRMAN (SHRI MD. SALIM) : He must promise that he will finish his speech within five minutes.

SHRI N. E. BALARAM (Kerala): He should apologise for his mistake. The Member should apologise for his mistake. (Interruptions)... I have no objection to his being allowed to speak. But he must apologise for the mistake he committed.

SHRI V. NARAYANASAMY (Pondicherry) : Sir, I was there in the House. Some of my guests came there. Therefore, I went out. I thought he would take a little more time. I may be pardoned for not being present in the House when my name was called.

THE VICE-CHAIRMAN (SHRI MD. SALIM) : But don't take seven minutes to start your speech.

SHRI V. NARAYANASAMY: Mr. Vice-Chairman, thank you for giving me an opportunity to speak. Sir, it has been specifically mentioned in the Constitution that the Election Commission should not be influenced by any political party in power and it should be an independent body Keeping that principle in view, while bringing a draft in the Constituent Assembly the framers of the Constitution wanted to have a Federal Election Commission with a Chief Election Commissioner and other Election Commissioners. When the debate started on the subject of having a multi-member Election Commission, it was decided by the House that the Chief Election Commissioner and other Election Commissioners can be appointed by the hon. President for conducting elections in this country. When this issue was raised earlier, Dr. Ambedkar asked, "If a person, who is appointed as the Chief Election Commissioner, is unfit to hold the office then what is the remedy?" He went to the extent of saying that the general impression we carry is that the Chief Election Commissioner will be impartial and other Election Commissioners, who will be appointed, would be having a neutral position in the matter. But the latest developments have created some countroversy. Sir, in the last Session and on earlier occasions also several issues were raised in this House by many hon. Members on the functioning of the Chief Election Commissioner. I don't want to quote all those issues. When the Chief Election Commissioner announced elections in some States, there was a hue and cry in some sections. Some hon. Members said that the Chief Election Commissioner had announced elections without consulting the State Governments. When the Chief Election Commissioner took action against some officers then one political party supported it not only in this House but also outside. It is known to everybody. When Shri Rajiv Gandhi was our Prime Minister, it was thought that a multi-member body will be feasible for this country because giving enormous powers to the Chief Election Commissioner for conducting elections in a big country like India will be disastrous. Unfortunately, the Government headed by Shri V. P. Singh nullified it. It was challenged before the Supreme Court. The Supreme Court was pleased to observe that the powers of the hon. President to appoint the Chief Election Commissioner and other Election Commissioners were very much there. Therefore, the Supreme Court upheld the power of appointing other Election Commissioners in accordance with Article 324 of the Constitution. When the Government brought forward an Ordinance to appoint other Election Commissioners, there were several criticisms from various political parties and

constitutional experts, I would like to submit that in a country like India giving enormous powers to one individual to decide about elections will lead to a kind of misunderstanding. We know how elections are being conducted. What has happened in the recent past? Elections were announced by the Chief Election Commissioner. When the election process was in progress, elections were postponed by the Chief Election Commissioner without consulting the State Governments. The Chief Election Commissioner fixed the election date without consulting the State Governments. Therefore, not only the State Governments but also the candidates were put into a lot of difficulties.

Therefore, to conduct the election process and to help take decisions collectively, this Election Commission should have at least two other members whose decisions can be made final. There is a controversy regarding clause 10. Clause 10 says,

"The Election Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners."

It further says,

"Save as provided in sub-section (1), all business of the Election Commission shall, as far as possible, be transacted unanimously.

(3) Subject to the provisions of sub-section (2), if the Chief Election Commissioner and other Election Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority."

Now sub-section (1) of clause 10 is very crucial. The hon. Minister has to enlighten me on this aspect. It is the duty of the Chief Election Commissioner to assign jobs to the other Election Commissioners. Supposing, the Chief Election Commissioner refuses to do it, what happens ? I want the hon. Minister to respond to this aspect because the whole controversy arose due to the fact that the Election Commisisoner did not allocate powers to the other Election Commissioners. The other Commissioners were not even provided with rooms. They were seated in the hall and were transacting business. They were not allowed to hold meetings and their rooms were also found locked. The Election Commission is an independent body and the Election Commissioners have to function within their parameters. The Chief Election Commissioner also stated hat Government wanted to erode the powers of the Chief Election Commissioner and hence it appointed two other Commissioners. Now the Supreme Court is going into this matter. I feel there should be balance of power and the majority view should prevail. The State Governments should not be harassed. We had peaceful elections in the north and the credit goes to him. The State Governments should not be harassed. The candidates should not be harassed. The political parties are interested in the election process and it has to be conducted in a peaceful manner. The Chief Election Commissioner should cooperate and he should not be an impediment. Therefore, I support this Bill moved by the hon. Minister. I would request the hon. Members who are opposing this Bill or who are supporting the Chief Election Commissioner to support this Bill. Thank you.

SHRI TRILOKI NATH CHATURVEDI (Uttar Pradesh) : Mr. Vice-Chairman, Sir, I rise to oppose the Bill and seek its disapproval for reasons more than one. Sir, for some time now I find that the Chief Election Commissioner has been the subject of berating and browbeating. I do not want to take his name. But it is a question of bashing up of a particular office. The same persons who pay homage to the sanctity of the institution are now

trying to criticise the individual and thus undermine not only the sanctity but also the strength of the institution. The nodding approval which I am getting from Shri Kalp Nath Rai really adds substance to what I just mentioned. Sir, as mentioned by other hon. Members, this Ordinance could be allowed to lapse for reasons more than one.

But it is amazing that the Government persists in its cussedness and follies. Like the Bourbons of France, the Government does not listen to the voice of history and/or of reason. Firstly, Sir, as has been pointed out, the matter has been referred by the Supreme Court to a wider Bench. Could we not wait for some time till the Supreme Court gives its final verdict ? In a way, in its interim judgement, it had already clarified the position, earlier in the State vs. Dhanoa and now in the other reference or the petition which the Chief Election Commissioner—not only the Chief Election Commissioner but many other distinguished citizens of this country—had filed. That is why there was a consultative kind of petition before the Supreme Court. Why then this impatience ? Is this the respect, the much wanted respect, for law ? And the hon. Minister is the Minister for Law and Justice and I think the Minister for Law should enforce law in such a way that justice is really ensured and not just be a bearer of this name. Sir, the other thing that I would like to mention, in this connection, is that after all, the Ordinance was a motivated one, a tainted one. These are the facts as to why you brought in this particular kind of Ordinance. Now, even this motive is over. Elections are over. Could we not wait for some time for the Supreme Court judgement ? And that is why I do subscribe to the suggestion made by Mr. Malaviya that let this now be again referred to a joint select committee so that with dispassion, with reason, and in a calm atmosphere, we can explore in depth the various dimensions and then come to some kind of a unanimous judgement about an institution which is a Constitutional office. Words have been used, like 'balance of power', 'checks and balances' because the Chief Election Commissioner provides a check to that, out-balancing the balance of power in a democracy and that is why there is all this criticism of the Government. It is really for the maintenance of this balance of power, it is to maintain this balance that the Election Commission was set up and the way the Chief Election Commissioner has been working, the Chief Election Commissioner has acquitted himself creditably. I have differed from him on a number of things. One need not agree with all his views, all his comments, or all the decisions that he has taken. But the basic purpose of this is to ensure de-criminalisation of politics, to ensure that the election processes are not vitiated through money power, through mafias and through muscle power. I think he has tried to attempt, to endeavour, this kind of thing, but we hark back to the past when things were better. If the things had come to such a level as they are today, I have no doubt that any Election Commissioner would have acted in the same way as the present Chief Election Commissioner is functioning. It is not necessary to agree with all his judgements. Words were used that they hold the democracy to ransom. Now, an attempt is daily being made to hold the democracy to ransom. And that is why the vested interests now oppose this kind of even a simple suggestion that let us wait till the Supreme Court gives its verdict. Sir, I would also like to mention that the institution itself as such was defiled and debased. Then why again try to debase and defile this ? Why the reference to the Joint Select Committee of 1971 ? I would also like to mention a very important fact. Last time, when certain elections were not allowed to be held allegedly by the Chief Election Commissioner, the Attorney-General was called to the Bar of the Lok Sabha and he gave some advice. I do not want to go into that puerile kind of an approach to the entire thing. But what is surprising is that for months thereafter, the Government kept quiet. If the Government was so exercised over this matter, why did they not come

with a Bill at that time itself ? Why did the Government not issue an Ordinance at that time ? The Law Minister is an honourable person and a very competent person; he could have brought a legislation within twenty-four hours. Today people choose to quote the dictum of the Supreme Court that three heads are better than one. I would like to remind you, Mr. Vice-Chairman, as to what no less a person than our Prime Minister was reported as saying that one is good enough for us. He was reported to have said : If one CEC behaves like this, I don't know what will happen if three persons being to behave the same way. This is the approach; this is the kind of levity, We are now bringing an amendment to the Constitution through a statute.

Sir, there are a number of other points to which I want to draw your attention. Why don't they bring it out as a part of the total electoral reforms ? My party is of the view that there should be a multi-member Commission. Everybody in administration knows that there are multi-member agencies, single-member agencies, board or commission type agencies. Everybody knows about these things. That is why the founding fathers, in their wisdom, have made a provision for the same. They never thought that this would be misused. This was attempted in 1989. Again today, the same kind of situation is brought. Just because Mr. Peri Sastri did not agree to certain things, the Government brought in two other commissioners. Both those officers worked with me and I have no comments to make on them. The same thing is happening today also. The Chief Election Commissioner has said openly, both before the Supreme Court and in the public—the Government has not tried to refute it—that the Government wanted postponement of certain elections to which he did not agree. He has also talked of the kind of allurements offered to him like the posts of ambassador, governor, etc. And today we are talking about the sanctity of the office of the Election Commission. I know what kind of words were used on the floor of this House some four years ago. The Chair, in its wisdom, decided to delete those phrases, those colourful phrases and epithets. Who is responsible for this sorry spectacle ? Is it not the Government which is heedless of all moral proprieties, of all legal niceties and even the voice of the people ? Who is responsible for this kind of a situation ?

Another funny thing is the phrase used. I need not go into the details thereof. They used the phrase 'as far as possible'. They said, "the constitutional provision is attempted to be amended." This is when the matter is before the hon. Supreme Court and through a statute and in haste. The phrase used is 'as far as possible'. Is this 'as far as possible' a legal phrase ? This Parliament makes a law. And you want to transform this law into speculation, into giving an advice. We are giving an advice as to how these three persons should work. This is not a legal phrase. The phrase 'as far as possible' is redundant. Leave it to their wisdom if you think that three people would do better than one and that these three people would work cohesively. We want a cohesive Commission and not a squabbling Commission. Then, who is responsible for this sorry spectacle, for the appointment of two other members on the Commission ? One was said to be a family friend. The other person's name was brought into controversy because he was the Cabinet Secretary for six months. I have known both these persons for a very long period and I would not like to comment on them. But the point is, who is responsible ? It is your conduct, your acts of omission and commission, your inactivity which led to this kind of a situation. At that time, you were really serious, all the parties supported you and asked you to proceed further. At that time, why did you not come with the Bill ? Now you came. Why ? I am sorry to say all this. You have come up with this Bill, not to unfetter democracy, but to fetter the Chief Elecion Commissioner. You have brough forward this Bill as a sop to some of your friends who sided with you in the Bill relating to separation

of religion from politics. They were promised something and they have got it. They promised their support and still the Bill was not moved. Probably you thought, "Why not give them the crumbs of the bread ?" This is to mollify some who was annoyed or something like that. It is said that in West Bengal something had happened. I do not agree that this is the case. But these exigencies of the moment and this kind of situations cannot dictate the overall and the determining character of our Constitution. That is the important thing that we have to see. That is why I ask the Law Minister why the Government has done this. He is so prompt and so is the Government ? Why did he bring forward the Ordinance ? Why not bring forward the Bill after the advice of the Attorney-General ? And, it was said that it was not for the first time that this has been done and that in 1989 they did it. It was the same situation. The motivation was wrong and the timing was wrong. The same thing you want to do today. If you want to do it properly and if you have no ulterior motives and if it is not just a question of bashing a particular individual who is not convenient to you because he wants to redeem democracy, then you should not resort to this kind of measures, this kind of an approach.

One need not go into the credentials of the two Members of the Commission who were appointed. But this sorry spectacle was there only because of the actions of the Government. Are we enhancing the credibility and the reputation of the Commission just like this ? The Constitutional validity of this Ordinance has been challenged and that is why I say that decency demands that we should wait for the judgement of the honourable Supreme Court. I would also like to submit that the words 'as far as possible", and the amorphous and the ambivalent kind of language ought to be avoided. The Ordinance and the Bill which seeks to replace the Ordinance are, I think, a fraud on the Constitution. Equating all the Members of the Commission is a very strange kind of thing. In 1989, the posts of the two Commissioners were abolished because no financial provision was made. The Chief Election Commissioner says that he has only ten minutes' work because, after all, there are other people. Even the Constitution says that for the abolition of the posts you have to consult the CEC. Now, he posts can be abolished after consultations with him. But you don't appoint the Commissioners in consultation with the Chief Election Commissioner ! It is a very strange kind of approach. I would say that the Constitution accords primacy to the Chief Election Commissioner and that primacy must be preserved. The Government wants to fish in troubled waters and I think it is going to have its hands soiled by the troubled waters. If you want the institution of Chief Election Commissioner to be an institution which deserves our respect, then no attempt to denigrate that office or institution should be made by paying lip-sympathy to this kind of an approach.

Before I close, I would also like to mention that attempts were made during the debate the other day by invoking the name of Mahatma Gandhi because anything is good enough for BJP-bashing. Now, my Guru, Dr. Mitra, ... *(Interruptions)* ...

SHRIMATI JAYANTHI NATARAJAN (Tamil Nadu) : That is an unfortunate observation.

SHRI TRILOKI NATH CHATURVEDI: We do not lag behind anybody in our respect to Mahatma Gandhi. But the point is, I do want to ask : Was he also against the purity of elections, decommunalisation of politics, preservation of democratic values, and preservation of moral values ? Now, I would to ask my guru, Dr. Ashok Mitra : why not now also repeat the same thing on this occasion and persuade his own party people ? When the Chief Election Commissioner is trying to remove the road-blocks to the purity of democratic elections in this country, why not invoke the name of Mahatma Gandhi again, persuade your own party Members and also the Members opposite ?

Sir, with these words, I oppose the Ordinance. Thank you, Sir.

श्री रफीक आलम (बिहार) : उपसभापति महोदय, सरकार ने जो यह बिल लाया है, काबिले मुबारकबाद है। बल्कि बहुत पहले इस बिल को लाना चाहिए था। मैं अपने लायक दोस्त ला मिनिस्टर से कहूंगा कि बहुत देर को मेहरबां आते-आते। जब यह कांस्टीट्यूशन में प्रोविजन है कि एक से ज्यादा रख सकते है तो फिर इसमें कंफ्यूजन का कोई सवाल ही पैदा नहीं होता है। ways two heads are better than one पे प्रिंसीपल पर जम्हूरियत कायम है। वरना क्या जरूरत थी कि लाखों करोड़ों लोग चुनाव करते चाहे पार्लियामेंट का हो या असेम्बली का चुनाव हो, इसमें लाखों लोग हिस्सा लेते हैं। इसलिए यह किया गया है ताकि मनमाने तौर पर कोई काम न हो। यह बिल्कुल जरूरत थी और बहुत ही जरूरी बिल है जो लाए है, मैं इसके लिए उनको मुबारकबाद देता हूं। आप यह जानते हैं कि सुप्रीम कोर्ट में जब जजेज यूनेनीमस डिसिजन नहीं लेपाते है तो वहां मेजोरिटी डिसीजन होता है। कभी-कभी तो चीफ जस्टिस भी माइनारिटी में चले जाते है। यह तो क्लाज-10 लाया गया है, यह बहुत अच्छा है। जहां यूनेनीमिटी न हो वहां मेजोरिटी डिसिजन से काम होगा। इसमें कोई ऐसी बात नहीं है कि इस बिल को फिर से रूलबी किया जाए। दूसरी बात यह है कि कांस्टीट्यूशन में यह लिखा हुआ है कि all are equal before the eyes of law. आर्टिकल 14 या 15 में यह लिखा है कि किसी ग्राउंड पर डिसक्रिमिनेशन नहीं होगा। हिन्दुस्तान के अन्दर जो रहने वाले हैं चाहे कोई हिन्दु हो, मुसलमान हो, सिख हो या ईसाई हो, सब कानून की निगाह में बराबर है। जब इलेक्टोरल रोल तैयार हो जाता है तो उसके बाद चीफ इलेक्शन कमिश्नर इन नामों को हटा दें कि यह फारेनर्स है तो यहां आ कर के जिन लोगों का नाम कट जाता है तो उन लोगों को यह महसूस होता है कि आखिर हम लोग इस देश के नागरिक है या नहीं, हमारा क्या कसूर है, हमारा नाम क्यों हटा दिया गया है। चाहे कोई हिन्दु हो, मुसलमान हो, सिख हो या ईसाई हो, सब को यह महसूस होता है। अभी गोम अफेअर्स साहब ने कहा कि करीब करीब डेढ़ लाख लोगों का हिन्दुओं का नाम काटा है और खसूसन मुसलमानों के नाम काटे है। उसमें हिन्दू भाई भी हैं जिनके नाम काटे गये हैं लेकिन मुसलमानों की ज्यादा है। मैंने खुद करीम बाग में देखा कि एक हिन्दू भाई ने कहा कि मेरा नाम इलेक्टोरल रोल में नहीं है। इस तरह से क्यों होता है? आखिर यह इस देश के नागरिक हैं, किस ग्राउंड पर उनके नाम हटा दिये गये, यह देखने की बात है। हमारे चीफ इलेक्शन कमिश्नर को कैसे पता चल जाता है कि यह फारेनर्ज है, कैसे फारेनर्ज है, कौन सा आला ऐसा निकला है, चीफ इलेक्शन कमिश्नर के पास जिससे यह पता लगा लेते हैं कि ये फारेनर्ज आ गये। यह तो सरकार का काम है, स्टेट गवर्नमेंट का काम है, सेंट्रल गवर्नमेंट का काम है कि कौन फारेनर है या नहीं है। यह होम मिनिस्टरी का काम है। यह इलेक्शन कमिश्नर का काम नहीं है कि वह ने आर्डर कर दें कि फारेनर्ज के नाम काट दिये जाएं। इसलिए मेरी अपील है ला मिनिस्टर साहब से और होम मिनिस्टर साहब से कि जिनके नाम हटा दिये गये हैं चाहे किसी जबके से हो, किसी फिरके के हो, चाहे वह आसाम के हों या बिहार के या दिल्ली के हों या बंगाल के हों, जिनके नाम सिर्फ इसी ग्राउंड पर हटाये गये हैं कि किसी खास तबके से ताल्लुक है। या वह मुसलमान है इसलिए अगर हटाये गये हैं तो रेस्टोर किए जाएं उनके नाम जबकि वे वहां के रहने वाले हैं। आपको सुनकर ताज्जुब होगा कुछ साल पहले जब मैडम इंदिरा गांधी जी प्राइम मिनिस्टर थी, हमारे वहां से यह हुआ कि दो लाख बताये गये। गवर्नमेंट ने इन्क्वायरी की तो एक भी फारेनर नहीं निकला। लेकिन इलैक्शन कमीशन ने निकाल दिये। मैंने एक बार जब मैडम को कहा कि मैडम इस तरह से कैसे किसी आदमी को विश्वास होगा सरकार पर क्योंकि गवर्नमेंट कहती है कि फारेनर नहीं हैं और इलैक्शन कमीशन कहता है कि फारेनर है इनका नाम काटा जाए। तो फिर मैडम ने उठकर चीफ मिनिस्टर जी को बुलाकर कहा कि कोई और इन्क्वायरी नहीं होगी। स्टाप द इन्क्वायरी। ऐसी बातें हैं। इसलिए मैं आपके जरिए अपील करना चाहता हूं सरकार से कि जिन लोगों के नाम काटे हैं, हिन्दुस्तान के किसी

हिस्से के हों, क्या कोई ग्राउण्ड हो, किसी फिरके के हों, मुसलमान है इसलिए नाम काटे जाएं, क्रिश्चियन है इसलिए काटे जायें, या और कोई बातें हों तो वे रेस्टोर किए जाएं इसलिए कि इससे सिटीजन के दिल में चोट-सी लगती तो है। वह सोचता है हमारे बाप-दादा अभी से नहीं सैकड़ों साल से इस मुल्क में हैं और आज हमारा नाम इसलिए काटा जाता है कि हम लोग मुसलमान हैं।

जमील रहमान, एक्स एम. पी. थे। उनके भाई के नाम पर था कि बंगलादेशी हैं। तस्लीमुद्दीन [illegible] एक्स एम.पी. थे, उनकी बीवी और बेटे का नाम बंगलादेशी था। इस तरह की हरकतें होती हैं। इसलिए सरकार को यह चीज रोकनी चाहिए। मुझे अफसोस के साथ कहना पड़ता है कि हमारे डी.एम. और बाकी लोगों ने कहा कि हमने तो जो सही रिपोर्ट है वह लिखकर दे दी है लेकिन फिर वहां से आता है कि डिविजन कीजिए आप। तो इस तरह की बात बंद होनी चाहिए और सिर्फ धर्म या मजहब के नाम पर किसी भी फिरके के साथ डिस्क्रिमीनेशन नहीं करना चाहिए जबकि कानून है। यह कानून का राज्य है, किसी एक खास आदमी का राज नहीं है। इसलिए ऐसी हालत में खास करके ला मिनस्टर और होम मिनस्टर से मैं यह कहूंगा कि आइंदा ये बातें नहीं होनी चाहिए और जिनका नाम हटाये गये हैं उनको रेस्टोर करना चाहिए।

यह बहुत ही वैलनेम बिल है। हाउस को बिल्कुल एक होकर इसको पास करना चाहिए। मैं फुली सपोर्ट करता हूं।

†[شری رفیق عالم (بہار) : اپ سبھا ادھیکش مہودے سرکار نے جو یہ بل لایا ہے۔ قابل مبارکباد ہے۔ بلکہ بہت پہلے اس بل کو لانا چاہئے تھا۔ میں آپکے لائق دوست لا منسٹر سے کہوں گا کہ بہت دیر کی مہربان آتے آتے۔ جب یہ کانسٹی ٹیوشن میں پرو ویژن ہے کہ ایک سے زیادہ رکھ سکتے ہیں تو پھر اس میں اپوزیشن کا کوئی سوال ہی پیدا نہیں ہوتا ہے۔

Always two heads are better than one.

اسی پرنسپل پر جمہوریت قائم ہے۔ ورنہ کیا ضرورت تھی کہ لاکھوں کروڑوں لوگ چناؤ کرتے چاہے پارلیمنٹ کا ہو یا اسمبلی کا چناؤ ہو اس میں لاکھوں لوگ حصہ لیتے ہیں اسلئے یہ کیا گیا ہے تاکہ من مانے طور پر کوئی کام نہ ہو۔ یہ بالکل ضرورت تھی اور بہت ہی ضروری بل ہے جو لائے ہیں۔ میں اس کے لئے انکو مبارکباد دیتا ہوں۔ آپ یہ جانتے ہیں کہ سپریم کورٹ میں جب ججیز ویکینسیس ڈیکلیر نہیں کر پاتے ہیں تو وہاں میجوریٹی ڈیسیژن ہوتا ہے۔ کبھی کبھی تو چیف جسٹس بھی مائناریٹی میں چلے جاتے ہیں۔ یہ تو کلاز دس لایا گیا ہے یہ بہت اچھا ہے۔ جہاں یونانیمٹی نہ ہو وہاں میجوریٹی ڈیسیژن سے کام ہوگا۔ اس میں کوئی ایسی بات نہیں ہے کہ اس بل کو پھر ملتوی کیا جائے۔ دوسری بات یہ ہے کہ کانسٹی ٹیوشن میں یہ لکھا ہوا ہے

all are equal before the eyes of law.

کہ آرٹیکل ۱۴ میں یہ لکھا ہے کہ

†[ ] Transliteration in Arabic Script]

ہیں یہ دیکھنے کی بات ہے۔ ہمارے چیف الیکشن کمشنر کو کیسے پتہ چل جاتا ہے کہ یہ فارنرز ہیں۔ کیسے فارنرز ہیں کون سا آلا ایسا نکالا ہے چیف الیکشن کمشنر کے پاس جس سے یہ پتہ لگا لیتے ہیں کہ اتنے فارنرز آگئے ہیں۔ یہ تو سرکار کا کام ہے۔ اسٹیٹ گورنمنٹ کا کام ہے۔ سینٹرل گورنمنٹ کا کام ہے۔ یہ الیکشن کمشنر کا کام نہیں ہے کہ یہاں سے آرڈر کردیں کہ فارنرز کے نام کاٹ دئے جائیں اس لئے میری اپیل ہے لا منسٹر صاحب سے اور ہوم منسٹر صاحب سے کہ جن کے نام ہٹا دئے گئے ہیں چاہے کسی طبقے سے ہوں۔ کسی فرقے سے ہوں چاہے آسام کے ہوں یا بہار کے ہوں یا دلی کے ہوں یا بنگال کے ہوں جن کے نام صرف اس گراؤنڈ پر ہٹائے گئے ہیں کہ خاص طبقے سے متعلق ہیں۔ یا وہ مسلمان ہیں اس لئے اگر ہٹائے گئے ہیں تو ریسٹور کئے جائیں انکے نام جبکہ وہ وہاں کے رہنے والے ہیں۔ آپ کو سن کر تعجب ہوگا کچھ سال پہلے جب میڈم اندرا گاندھی جی پرائم منسٹر تھیں۔ ہمارے وہاں سے یہ ہوا کہ دو لاکھ بتائے گئے۔ گورنمنٹ نے انکوائری کی تو ایک بھی کسی گراؤنڈ پر ڈسکریمنیشن نہیں ہوگا۔ ہند دوستان کے اندر جو رہنے والے ہیں چاہے کوئی ہندو ہو۔ مسلمان ہو۔ سکھ ہو یا عیسائی ہو۔ جب قانون کی نگاہ میں برابر ہیں۔ جب الیکٹورل رول تیار ہوتا ہے تو اس کے بعد چیف الیکشن کمشنران ناموں کو ہٹا دیں کہ یہ فارنرز ہیں تو یہاں آکر کے جن لوگوں کا نام کٹ جاتا ہے ان لوگوں کو یہ احساس ہوتا ہے کہ آخر ہم لوگ اس دیش کے ناگرک ہیں یا نہیں۔ ہمارا کیا قصور ہے۔ ہمارا نام کیوں ہٹا دیا گیا ہے۔ چاہے کوئی ہندو ہو۔ مسلمان ہو۔ سکھ ہو یا عیسائی ہو۔ سب کو یہ احساس ہوتا ہے کہ ابھی م۔ افضل صاحب نے کہا کہ قریب قریب ڈیڑھ لاکھ لوگوں کا دلی میں نام کاٹا ہے۔ اور خصوصاً مسلمانوں کے نام کاٹے گئے ہیں۔ اس میں ہندو بھائی بھی ہیں۔ جن کے نام کاٹے گئے ہیں۔ لیکن مسلمانوں کے زیادہ ہیں۔ میں نے خود قرول باغ میں دیکھا کہ ایک ہندو بھائی نے کہا کہ میرا نام الیکٹورل رول میں نہیں ہے۔ اس طرح سے کیوں ہوتا ہے۔ آخر وہ اس دیش کے ناگرک ہیں۔ کس گراؤنڈ پر ان کے نام ہٹائے گئے

جمیل الرحمان ایکس۔ ایم۔ پی۔ تھے۔ ان کے بھائی کے نام پر تھا کہ بنگلہ دیشی ہیں۔ تسلیم الدین صاحب ایکس ایم۔ پی تھے۔ ان کی بیوی اور بیٹے کا نام بنگلہ دیشی تھا۔ اس طرح کی حرکتیں ہوتی ہیں۔ اس لئے سرکار کو یہ چیز روکنی چاہئے۔ مجھے افسوس کے ساتھ کہنا پڑتا ہے کہ ہمارے ڈی۔ ایم۔ اور باقی لوگوں نے کہا کہ ہم نے تو جو مجیبی رپورٹ ہے وہ لکھکر دیدی ہے۔ لیکن پھر یہاں سے آتا ہے کہ ریزن کیجئے آپ۔ تو اس طرح کی باتیں بند ہونی چاہیں اور صرف دھرم یا مذہب کے نام پر کسی بھی فرقہ کے ساتھ ڈسٹنکشن نہیں کرنا چاہئے جبکہ قانون ہے۔ یہ قانون کا راجیہ ہے۔ کسی ایک خاص آدمی کا راجیہ نہیں ہے۔ اسلئے ایسی حالت میں خاص کرکے لا منسٹر اور ہوم منسٹر سے میں یہ کہوں گا کہ آئندہ یہ باتیں نہیں ہونی چاہیں۔ اور جو نام ہٹائے گئے ہیں۔ ان کو ریسٹور کرنا چاہئے۔

یہ بہت ہی ویل کم بل ہے۔ ہاؤس کو باکل ایک ہوکر اس کو پاس کرنا چاہئے۔

میں فل سپورٹ کرتا ہوں۔]

فارنر نہیں نکالا۔ لیکن الیکشن کمیشن نے نکال دئے۔ میں نے ایک بار جب میڈم کو کہا کہ میڈم اس طرح سے کیسے کسی آدمی کو وشواس ہوگا سرکار پر کیونکہ گورنمنٹ کہتی ہے کہ فارنرز نہیں ہیں اور الیکشن کمیشن کہتا ہے کہ فارنرز ہیں ان کا نام کاٹا جائے۔ تو پھر میڈم نے اٹھکر چیف منسٹر اور چندر شیکھر جی کو بلا کر کہا کہ کوئی اور انکوائری نہیں ہوگی۔ اسٹاپ دی انکوائری۔ ایسی باتیں ہیں۔ اس لئے میں آپ کے ذریعے اپیل کرنا چاہتا ہوں سرکار سے کہ جن لوگوں کے نام کاٹے ہیں۔ ہندوستان کے کسی حصہ کے ہوں۔ خواہ کوئی گراؤنڈ ہو۔ کسی فرقے کے ہوں مسلمان ہیں اس لئے نام کاٹے جائیں۔۔۔ کرسچن ہیں اس لئے کاٹے جائیں یا اور کوئی باتیں ہوں۔ تو وہ ریسٹور کئے جائیں۔ اس لئے کہ اس سے سٹیزن کے دل میں ایک چوٹ سی لگتی ہے۔ وہ سوچتا ہے۔ ہمارے باپ دادا آج سے نہیں سینکڑوں سال سے اس ملک میں ہیں اور آج ہمارا نام اس لئے کاٹا جاتا ہے کہ ہم مسلمان ہیں۔

THE VICE-CHAIRMAN (SHRI MD. SALIM) : Shri Ish Dutt Yadav, not here. Shri Tindivanam.

SHRI SATYA PRAKASH MALAVIYA : My name is there.

THE VICE-CHAIRMAN (SHRI MD. SALIM) : His name is there.

SHRI TINDIVANAM G. VENKATRAMAN (Tamil Nadu) : Mr. Vice-Chairman, I oppose this Bill not with regard to the substance but at the manner in which it has been pushed through and rushed through first by way of Ordinance and now, to ratify it, the Bill is intended to be passed here in this House.

Sir, primarily, there are three writ petitions pending before the Supreme Court. One is by the Chief Election Commissioner questioning the Ordinance of the 1st October, equating him with two Election Commissioners appointed, and also the appointment of the two Election Commissioners itself which is being challenged by the CEC. There is another petition by Cho Ramaswamy, Editor of Tughlak, questioning the validity of the Ordinance. There is one more petition by one Mr. D.K. Roy, President of the National Democratic Front. These three petitions are still pending and the matter is *sub judice*. Where was the urgency of first promulgating the Ordinance and now for pushing through this Bill ? This is what every reasonable man will ask, particularly about the manner in which it is being pushed through. That is why I said initially that I oppose it for the manner in which it is being pushed through hastily. Anyway, the elections are over now. They wanted to achieve something, but they could not achieve it.

I want to place on record my appreciation and also my encomiums to the Chief Election Commissioner. Though he may act arbitrarily, he may look haughtily and he may act, to a certain extent, roughly also, I can say, he has stood by democratic principles. He has acted according to the letter and spirit of the Constitution. He has acted independently and he has shown hat he cannot be influenced by any political considerations.

I would like to refer to one or two allegations which have been made in the petition. I want to put in on record because one should know how the C.E.C. was acting. He has said in his petition that even the Lt. Governor of Delhi met him and asked him to postpone the elections in Delhi. One is aghast at the extent to which even a Governor could bend to the dictates of politicians and meet the Chief Election Commissioner asking him to postpone the elections. This is really abominable and a thing which nobody can think of.

There is another thing which is said in the petition. The C.E.C. has stated in his petition that one of the persons appointed as the Election Commissioner was a very close friend of the Prime Minister. This is also there. This has been put in black and white before the Supreme Court. (*Interruptions*). It is said in the petition that the person was so close that he was appointed. So also the other gentleman, This is another serious allegation which has been made in the petition.

It is also submitted in the petition that leaders of several political parties whose names he did not want to reveal met him for the same purpose, namely, to put a stop to the constitutional process of holding the elections, giving some lame excuses or putting forward some unreasonable things. Of course, he met them and heard them patiently. At the same time, he went ahead with the process of elections. No force on earth could prevent him from holding the elections. (Time-bell rings).

It is only due to his efforts that not only in Delhi, but in the other States also, elections were held and that too peacefully. This was made possible only because of the deployment of forces, management, as well as by his taking disciplinary action against the polling staff. Therefore, this legislation is nothing but an attempt at belittling him and trying to remove him. The natural concomitant, the logical conclusion, is that this has been brought forward only to spite him. This is the impression which is prevalent among the common people.

THE VICE-CHAIRMAN (SHRI MD. SALIM) : Please conclude.

SHRI TINDIVANAM G. VENKATRAMAN : Having said this, in regard to the Bill, I want to draw the attention of the hon. Minister to clause 10. Other friends have also referred to it. It says that as far as possible, there would be unanimity in the transaction of business and in case there is no unanimity, the majority view would prevail. I would like to pose a question here. Suppose all the three are different poles. What would happen? There is no provision in the Bill. There is absolutely no provision here to take care of such an eventuality. Have you any provision here ? No. Your only aim is as I said, to spite the present Chief Election Commissioner. You are trying to oust him. At the same time, you are putting the people between the devil and the deep sea.

You are just trying to push through this amending Bill to suit your convenience and your purpose. I would like to point out that you have already burnt your fingers. This is nothing new. This is not an innovation. It was tried once earlier. It is said 'Once bitten twice shy'. Please take note of it. There was no need to have brought forward an Ordinance which you are now trying to convert. The Bill can wait. As my learned friends have said, I also urge upon the hon. Minister, You did it once earlier, but you failed. Don't again get into the trap. Moreover, as was pointed out by the learned hon. Member, Shri Ram Jethmalani, this question is now pending before the Supreme Court. A larger Bench is going into this question. Please wait. Do not be in a hurry. Therefore, I oppose this Bill. I appeal to you not to create an impasse. Wait for sometime, and see what decision is going to be taken. I would like to suggest that proper constitutional amendment alone is the only remedy. Do not go through this Bill in this hanky-panky way and do not try to see that this Bill is pushed and rushed through like this. If you do so, you will fail.

महोदय, इसका जो हैडिंग है "द चीफ इलैक्शन कमिश्नर एंड अदर कमिश्नर्स (कंडीशंस एंड सर्विस) अमेंडमेंट बिल, 1993 जिसके जरिए 1993 में पहली बार इस संबंध में जो विधेयक लाया गया था उसमें इसके जरिए परिवर्तन और परिवर्धन करने की कोशिश की गयी है, लेकिन मेरी समझ में यह नहीं आ रहा है कि इसमें चैप्टर–3 में जो क्लॉज–9 है––

Transaction of business of Election Commission.

इसकी चर्चा इसमें कैसे की गयी है क्योंकि इसका टाइटल पढ़ने से साफ पता चलता है कि जो चुनाव आयुक्त हैं उनकी केवल सेवा शर्तों के संबंध में यह विधेयक लाया गया है। इसके पहले सन् 1972 में इलैक्शन कमीशन के बारे में कुछ रूल्स बनाए गए थे, उस समय रूल्स के लिहाज से केवल 5 वर्ष तक उनका कार्यकाल था और गवर्नमेंट ऑफ इंडिया का जो गजट था, उसमें 26 मई, 1972 को यह प्रकाशित किया गया था। अब इसके बाद जब चुनाव की घोषणा हो चुकी और लोग चुनाव के बारे में तैयारी शुरू कर रहे थे तो उस बीच में पहली अक्तूबर को यह अध्यादेश ले आए। बताते यह हैं कि पहले विपक्ष के लोग या संसद के सदस्य भी यह चाहते थे कि इसे मल्टी-मेंबर बनाया जाए। महोदय, मैं ध्यान आकर्षित करना चाहूंगा कि 30 मई 1990 को इसी राज्य सभा में इस संबंध में एक विधेयक श्री दिनेश गोस्वामी द्वारा प्रस्तुत किया गया था। उसमें उन्होंने इस बात की चर्चा की थी कि इलैक्शन कमिश्नर की जो नियुक्ति हो उसके संबंध में तीन व्यक्तियों की एक कमेटी बनायी जाए और राष्ट्रपति उनका परामर्श करें। उसमें इस बात की भी चर्चा थी कि लोक सभा के अध्यक्ष, राज्य सभा के सभापति और लोकसभा में विपक्ष के नेता यदि लोक सभा में विपक्ष के मान्यता प्राप्त नेता न हों तो लोकसभा में सबसे बड़े दल के नेता––इन तीनों को शामिल किया जाय। उसमें यह भी उल्लेख किया गया था कि इलेक्शन कमिश्नर जब अपने पद से सेवामुक्त हो जाएं तो उन्हें उसके पश्चात केन्द्र सरकार के अन्तर्गत कहीं भी नियुक्त न किया जाए, लेकिन उपसभाध्यक्ष जी पूर्व-उदाहरण मौजूद है कि इलेक्शन कमिश्नर जब रिटायर हुए हैं तो उनको राज्यपाल भी बनाया गया है। इसके साथ-साथ उपसभाध्यक्ष जी ठीक उसी दिन 30 मई, 1990 को श्री दिनेश गोस्वामी द्वारा एक व्यापक संशोधन प्रस्तुत किया गया था। रिप्रजेंटेशन ऑफ पीपुल्स अमेंडमेंट बिल, 1990। उपसभाध्यक्ष महोदय, मैं यह जानना चाहता हूं कि जब बार-बार चुनाव कानूनों में व्यापक संशोधन करने की बात आती है तो आप उससे क्यों पीछे हट रहे हैं और 1990 में जिस आधार पर वह विधेयक लाया गया था, वैसा विधेयक क्यों नहीं लाए हैं?

दूसरे जिस तरीके से आप संशोधन के जरिए यह बिल लाए हैं उसके संबंध में भी सरकार की प्रतिष्ठा में गिरावट आई है और लोगों के मन में शंकाएं हैं। जिन दो व्यक्तियों को आपने चुनाव आयुक्त नियुक्त किया, उनमें से एक तो छुट्टी लेकर चले गए और दूसरे ने शायद आवेदन किया कि वह काम नहीं करना चाहते। तो इस परिस्थिति में आपने इलेक्शन कमीशन को पहुंचा दिया है और सुप्रीम कोर्ट ने जो इंटरिम आर्डर पास किया था, उसको शायद इसी माह की 15 तारीख को उसने कनफर्म भी कर दिया।

इसके अतिरिक्त उपसभाध्यक्ष महोदय जैसा कि जेठमलानी जी ने ध्यान आकर्षित किया कि सुप्रीम कोर्ट में एक विवादित मामला चल रहा है तो आप जिद मत करिए, हठधर्मी मत करिए और सुप्रीम कोर्ट के निर्णय का इंतजार करिए।

.....दूसरे इसमें एक चुनाव आयोग की चर्चा है, जिसमें कमीशन का उन्होंने कहा है कमीशन का मतलब है इलेक्शन कमीशन । यह भी कहा है कि कोई एक व्यक्ति भी इलेक्शन कमीशन हो सकता है। चुनाव आयुक्त हो सकता है और यह एक व्यक्ति चुनाव आयुक्त होगा, तो वह मुख्य चुनाव आयुक्त होगा । उसके बाद संविधान में जरूर चर्चा है कि जितनी संख्या राष्ट्रपति निर्धारित करे उतनी संख्या तक और चुनाव आयुक्त हो सकते हैं । संविधान के अनुच्छेद 123 में अध्यादेश लाने का अधिकार है । लेकिन, किन परिस्थितियों में आप अध्यादेश लाएं, कौन सी ऐसी परिस्थितियां विद्यमान थीं जिनके कारण कि आपको अध्यादेश लाना पड़ा ? इसके लिए आपको बताना चाहिए । मेरी अपनी समझ से, जो कुछ मैंने इस विधेयक में देखा, कोई भी ऐसी परिस्थिति विद्यमान नहीं थी, जिसके चलते अध्यादेश लाने की आवश्यकता रहती ।

तीसरी चीज, जिसकी ओर मैं आपका ध्यान आकर्षित करना चाहूंगा, जिस प्रकार से मुख्य चुनाव आयुक्त ने काम किया है, उनके बहुत से आदेशों से मैं स्वयं भी सहमत नहीं हूं, लेकिन कम से कम संविधान के अनुच्छेद 324 की जो मंशा है कि मतदाता निर्भय होकर स्वतंत्र रूप से अपने मतदान का प्रयोग करें और एक शांतिमय वातावरण में चुनाव हों, इसके लिए तो मैं समझता हूं कि मुख्य चुनाव आयुक्त निश्चित रूप से बधाई के पात्र हैं ।

मैं फिर आपके इस विधेयक का विरोध करते हुए आपसे अनुरोध करूंगा कि इस विधेयक को आप वापस लीजिए और जो सर्वोच्च न्यायालय का इसमें फैसला होना है उसका इंतजार कीजिए। जो मैंने अपना प्रस्ताव रखा है, उस पर भी विचार कीजिए कि इसको प्रवर समिति को भेजा जाए और वहां इस पर विचार होने दें ।

उपाध्यक्ष महोदय, अंतिम बात यह कि 15 जून 1949 को डा. अम्बेडकर ने जो ड्राफ्ट आर्टिकल था 324 का, उसमें कहा था, मैं उसको उद्धरण करना चाहता हूं, केवल दो पंक्तियां है । डा. अम्बेडकर ने 15 जून, 1949 को कहा था ।

"The House affirmed without any kind of dissent, that in the interests of purity and freedom of election to the legislative bodies it was of the utmost importance that, they should be freed from any kind of interference from the executive of the day."

इसलिए मैं अनुरोध करूंगा कि 30 मई, 1990 को जो विधेयक राज्यसभा में श्री दिनेश गोस्वामी जी ने प्रस्तुत किया था, उसी तरीके का विधेयक आप लाइए ताकि हम फिर पुनर्विचार करें । धन्यवाद ।

SHRI MADAN BHATIA (Nominated) : Mr. Vice-Chairman, Sir, I had no intention to participate in the debate on this Bill for the simple reason that so far as the merits of the provisions of this Bill are concerned, they are *sub judice* in the Supreme Court and are subject-matter of adjudication before the highest court of the land. It will neither be appropriate nor in the fitness of things for us to express any opinion as to the validity or otherwise on the merits of the provisions of this Bill. I have stood up just to give my view in reply to one point which was made by one hon. Member on the other side.

It has been said, why should this Government bring forth this Bill when the matter is already pending in the Supreme Court ? Sir, the matter which is pending in the Supreme Court has

arisen out of the challenge to the Ordinance. It is the Ordinance which is the subject-matter of challenge in two or three writ petitions which have been admitted and which have been referred to a Constitution Bench for decision. If we do not support this Bill, the Ordinance will lapse, and if the Ordinance lapses, the writ petitions will lapse and they will become infructuous. There will be nothing for the Supreme Court to adjudicate upon.

SHRI MENTAY PADMANABHAM (Andhra Pradesh) : That would have been better for the Government.

SHRI MADAN BHATIA : It is high time now, when the question has arisen in this country whether the Election Commission should consist of one member or it should be a multi-member body, that the highest court of the land should decide, once for all, as to what would be the powers of the Chief Election Commissioner and other members of the Election Commission, namely, the Election Commissioners, *vis-a-vis* each other.

This is a constitutional question which has arisen for the first time after the Constitution was promulgated. It is not by virtue of this Bill that the Government has got the power to convert the single-member body into the multi-member body. That provision is in the Constitution itself. Sub-article (2) of Article 324 of the Constitution in terms says that the Commission may consist of more than one member, that apart from the Chief Election Commissioner there may be Election Commissioners, but the Constitution has not clarified what the powers of the Election Commissioners would be or the status of the Election Commissioners would be *qua* the Chief Election Commissioner. It is because of the provisions contained in clause 10 of this Bill which says that if there is any dispute between the Chief Election Commissioner and the other members of the Election Commission, the decision will be the decision of the majority, that the dispute has arisen and gone to the Supreme Court. The Supreme Court is seized of this particular matter whether, if the body consists of more than one member, the decision of the Chief Election Commissioner would be the final word or the word of the majority would be decisive. This is a fundamental, constitutional question. This constitutional question must be resolved, it is going to be resolved and this is the time when it must be resolved because the demand has arisen in this country not only from the Congress Party but also from various other parties that the Election Commission should be a multi-member body. Once this demand has arisen and various political parties have come to realise that the Election Commission should be a multi-member body, it is time, the right time for the Supreme Court to be asked to decide once and for all on what the powers of the various members of this body *inter se* would be. This is the point which the Supreme Court is going to decide, and we say that we should wait for the decision of the Supreme Court. I think this is reducing the whole thing to absurdity. I respectfully submit, Sir, that unless

SHRI SANGH PRIYA GAUTAM (Uttar Pradesh) : Sir, I have a point of order. I am also a lawyer. (*Interruptions*) Once it is said that the matter is *sub judice*...

THE VICE-CHAIRMAN (SHRI MD. SALIM) : Under which rule do you raise the point of order ?

SHRI SANGH PRIYA GAUTAM : My point of order is this. In the Supreme Court the Ordinance has been challenged, and we are discussing about disapproval of the Ordinance... (*Interruptions*) The Ordinance has been challenged before the Supreme Court of India. Therefore, I say...

SHRI MADAN BHATIA : I have followed you. Please sit down... (*Interruptions*)

SHRI SANGH PRIYA GAUTAM : I can say it before the Chair.

THE VICE-CHAIRMAN (SHRI MD. SALIM) : You have finished it.

SHRI SANGH PRIYA GAUTAM : I am finishing.

So, I submit that when the matter is *sub judice* before the Supreme Court of India, we should wait for its decision. Should we not ?

SHRI SATYA PRAKASH MALAVIYA : What is your ruling, Sir ?

THE VICE-CHAIRMAN (SHRI MD. SALIM) : On this point of order ? You should know it. You are a senior Member of this House.

SHRI MADAN BHATIA : Once this Ordinance is substituted by the Act, then, the Supreme Court would be adjudicating on those writ petitions themselves on the validity of the Act itself which is merely replacing the Ordinance as it is. This decision, I respectfully submit, the country must welcome. The country must welcome the decision of the Supreme Court on this momentous, constitutional question.

PROF. SAURIN BHATTACHARYA (West Bengal) : When it comes.

SHRI MADAN BHATIA : If on the one hand, we make a demand that the Commission should be converted into a multi-member body and on the other hand we should be allowed to be left in dark on what the powers of the various members of the Election Commission *inter se* should be, this will be neither here nor there.

It is not going to help the country. I think it is proper and it is the right thing that the Government has done by bringing forward this Bill for getting it enacted so that this controversy is settled once and for all by the Supreme Court. Therefore, I support this Bill.

SHRI G. SWAMINATHAN : Sir, I stand before you to support the Bill. Strange arguments have been advanced saying since the Supreme Court is seized of the matter Parliament should not discuss it. Many senior Members took up that position and have also requested for your ruling on this.

As a former Presiding Officer of the House, I would say that similar matters have arisen not only in the Houses of the

State Assemblies, but also in Parliament. You may still remember, when the election case of Shrimati Indira Gandhi was being discussed in the Supreme Court, there was an amendment brought here on the Representation of the People Act. If you look up the Parliament proceedings you will find that while the court was seized of the matters, various Bills had been passed by the Parliament. On a specific question on this, Kaul and Shakdher—many of you might have read their book—said that there is no *sub judice* for Parliament in the matter of enactments. A Bill can be taken up and passed. Only if it is a discussion on a matter which is *sub judice*, it can be said that it is *sub judice* and you cannot discuss it. Suppose you cannot take up a matter which is before a court, the Parliament will come to a subsidiary position and we will not be able to make an amendment to an Act which is *sub judice*. Many of the Acts are being taken up by the courts at various stages. Then Parliament will not be able to transact any business if we take up such a position. Therefore, Sir, I make it very clear that Parliament is competent to take up the matter and there is no question of saying since it is *sub judice* we cannot take it up.

The whole question revolves not only round the post of the Election Commissioner. My personal feeling is that it is the person of the Election Commissioner which has become very disputable before Parliament and before the nation. It has already been mentioned by one of the Members, that Shri Shibban Lal Saxena said in the Constituent Assembly when the matter came up regarding the office of the Election Commissioner that 'there is no use making the term of the Election Commissioner as a fixed and secure tenure if there is no provision in the Constitution to prevent either a fool, or a knave or a person who is likely to be under the thumb of the Executive...' The point is that it is not the position of the Election Commissioner which was discussed in the Constituent Assembly. Suppose a Chief Election Commissioner is a wrong person; somehow or other the Government has chosen him as the Chief Election Commissioner and there is no way out because his position is very secure. He cannot be sent away very easily because his position is something like that of the Supreme Court Judge and you have only to bring in an impeachment. If he takes it into his head and behaves very erratically, what can the Government do. Regarding the present Election Commissioner we have heard so much about him during all these days. Even three days ago I read in papers what he said. He said that even for the Rajya Sabha elections he will try to question some of the Members who go to other States, enroll themselves at the last minute and become Members of the Rajya Sabha. Biennial elections to the Rajya Sabha are near. Perhaps he is mentioning about our Finance Minister who went to Assam and got himself elected from there. Shri Dinesh Singh got elected from Haryana. We have got every right to get ourselves enrolled in any place and get ourselves elected. Now, the Election Commissioner is questioning the very competence of these people for getting elected. Then he says : "I am going to look into the very nature of the election expenditure" as if nobody has done it so far and he is the only man who is going to take up the question of election expenses. He is threatening all people. There are many points about which he said. He said his telephones were being tapped by the Government.

He once quarrelled with his Security Officer because he refused to shoot somebody. Then he quarrelled with his watchman and the whole Election Commission was on strike.

(THE VICE-CHAIRMAN SHRI SHANKAR DAYAL SINGH IN THE CHAIR)

Then recently he gave an endorsement to a film in Calcutta about which there

was a row in the newspaper. My personal feeling is that I do not want to drag in a person...

SHRI MENTAY PADMANABHAM : Can we discuss in this House, personal behaviour of the Chief Election Commissioner ?

SHRI G. SWAMINATHAN : His personal behaviour is very important. That is what I am saying. The personal behaviour of the man.....

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH) : Now you better conclude.

SHRI MENTAY PADMANABHAM : There are certain institutions the heads of which we are not discussing. For example, the Governor, the Rashtrapati and others. In the same way we cannot discuss the personal behaviour of the Chief Election Commissioner also. May be we can discuss about the functioning of the Election Commission.

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH) : He is only referring to him. Please conclude now.

SHRI MENTAY PADMANABHAM : It is not in good taste. I am not defending the criticism of the Chief Election Commissioner. But discussing his personal behaviour is not in good taste.

SHRI G. SWAMINATHAN : I am leaving it at that point. We should have a proper Election Commission. The whole thing revolved around is why we have come up with this Bill on multi-member commission. It is not suddenly that the Government thought of bringing the Bill on multi-member commission. On 1-10-1993, an Ordinance was promulgated by the President. It was necessitated because of cancellation of all the elections on 2nd August. Mr. Vice-Chairman, Sir, you may recall and the hon. Members who are sitting beside me also might recall when the Chief Election Commissioner cancelled all the polls, biennial elections to the Rajya Sabha from Gujarat and West Bengal, Legislative Council elections in Bihar and Maharashtra...

SHRI VIREN J. SHAH : The argument of appointing a multi-member commission being advanced by the Member is...

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH) : No question of argument. Mr. Swaminathan, kindly conclude.

SHRI G. SWAMINATHAN : I am entitled to give my views on the Election Commissioner as he was entitled to give his views on my Chief Minister. So, I have got every reason to speak.

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH) : Swaminathanji, don't get agitated. You have already taken twice the allotted time.

SHRI G. SWAMINATHAN : How much time have I taken ?

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH) : More than your quota.

SHRI G. SWAMINATHAN : Sir, every Member has taken more than his allotted time because the subject is such a big subject. The functioning of the Election Commissioner cannot be discussed in one or two minutes.

SHRI MENTAY PADMANABHAM : Particularly the present Election Commissioner.

SHRI G. SWAMINATHAN : The present Election Commissioner had cancelled not one elections but many elections. Nobody knows why he cancelled biennial elections to the Rajya Sabha and bye-elections in many States. He came to Tamil Nadu and cancelled election to the Ranipet Assembly seat and election to the Palani Lok Sabha seat. He has cancelled elections not once but two or

three times. Whenever he finds it convenient he cancels the elections. His behaviour was arbitrary. If a Member goes through the proceedings of the Parliament, he can find that the Members who are opposing this Bill now have supported the proposal of a multi-member commission. I remember it clearly. I do not want to cast aspersions on anybody. Even the Vice-Chairman might have said that he wanted a multi-member commission. In fact, the whole House wanted a multi-member commission. At that time, including my hon. friend, Mr. Balaram who had supported this proposal at that time is going to oppose this Bill now.

SHRI H. R. BHARDWAJ : Their party is supporting this Bill.

SHRI G. SWAMINATHAN : Every party wanted a multi-member commission. If you go through the proceedings of the House, you will find that every party wanted a multi-member commission. They said that that gentleman was behaving arbitrarily. He gave a kick to every party. All parties supported this proposal. This is what I am saying. Every party has criticised him at one point or the other. Every Member has done that. Now the Government came forward with a Bill for multi-member commission to see that one member of Election Commission does not behave arbitrarily. This is the position. What did he do ? He has gone to the Supreme Court saying that multi-member commission is not correct. They are giving other members equal salary and the Government has made other Members equal to him. Now his contention in the Supreme Court is that they cannot be made equal to him. Now the Supreme Court is seized of the matter. They have referred the matter to the Constitutional Bench. I am sure that they are going to decide this matter.

Some Member said that if there is a multi-member commission, then, the three members might give their views in different ways, then, what will happen ? The same thing is taking place in the court also. Suppose there are five Judges in a Bench of the court, then, five Judges give their judgements in different ways. Then, what can we do ? We have to accept certain facts that majority of the members will conclude in a certain manner. Then only we can go about and do this work.

I support this Bill. My point is : "Is he behaviour of the Chief Election Commissioner towards the two Election Commissioners, appointed by the President, ight ?" We all respect the President. The appointment was made by the President. The President appointed Mr. Krishnamurti and Mr. Gill as the co-Members of the Election Commission. But the Chief Election Commissioner never allowed them to open the room and function. You cannot do like that. You may have a grouse against these members. Perhaps one member happens to be a friend of the Prime Minister. (*Interruptions*) There is nothing wrong in saying that one officer is a friend of the Prime Minister. It is good that officers are friends of the people who are ruling. (*Interruptions*) It is always good. (*Interruptions*) I am only saying what appeared in the newspaper. (*Interruptions*) The Chief Election Commissioner never allowed them to function. (*Interruptions*)

SHRI MENTAY PADMANABHAM : Do you mean to say that the Ministers should appoint their own friends.... (*Interruptions*)

SHRI G. SWAMINATHAN : Is it a normal behaviour ? I may be the Chief Election Commissioner. But is it a normal behaviour ? (*Interruptions*) Is it a normal behaviour of the officer ? Suppose, the President appoints two people and you do not like them. You do not like their behaviour. (*Interruptions*).

SHRI VIREN J. SHAH : Sir, are we discussing the conduct of a particular officer in the Election Commission ? (*Interruptions*).

SHRI G. SWAMINATHAN : Is there any embargo that I should not ? These are not any words. It was Mr. Ambedkar who had said that an unfit person may come there. It is not me but it was Shibban Lal Saxena who had said that. (*Interruptions*).

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH) : Mr. Swaminathan, you now conclude. Mr. N. E. Balaram would be the next Speaker.

SHRI G. SWAMINATHAN : I will conclude. You have been always kind to me and I don't want to create any trouble. I fully support the Bill. But I would request the Government to come forward with a constitutional amendment to see that Election Commissioners of this type are not appointed. They will be a great threat to democracy.

SHRI N. E. BALARAM : Mr. Vice-Chairman, Sir, I don't support the Bill and my request to the hon. Minister is, kindly withdraw the Bill. I don't think even if the Bill is sent to a Select Committee, we can improve upon that. Let him kindly withdraw the Bill and bring a comprehensive Bill covering the entire electoral reforms. That is my party position. Sir, I would like to ask one or two questions before I come to the Bill.

What was the hurry in bringing such an Ordinance ? The Minister did not explain this thing in his preliminary remarks. I think he will do it in the final reply. Secondly, the Government did not think it necessary to consult the Chief Election Commissioner before bringing this legislation. Here again, I would like to ask the hon. Minister why he has not consulted us. The real difference between the people who are opposing the Bill and the people who are supporting the Bill, according to me, is not on the question of multi-member Commission. I don't think that is so. All of us are for multi-member Commission. There may be some difference. One view-point is prevailing in this country and this view-point is not coming from ordinary people but it is coming from the Solicitor General. He said that the Election Commission is a department of the Government. He is the Solicitor-General of this Government. I would like to know from the hon. Minister whether this is the opinion of his Government. That is one opinion that the Election Commission is a department of the Government. That is the status of the Election Commission. This opinion comes from the Solicitor-General. This is not an ordinary opinion. Many, many people were sharing this view directly or indirectly when they spoke from this side or that side. I don't agree with that. According to me, let us have a debate on that. According to me, the Election Commission is an independent body. It is a constitutional body. I is not bound by any decision taken by the Government. I don't think so. If the executive gives an order, the Election Commission should not accept it if it thinks it is wrong. It is not the Home Secretary who has to send a circular. It is not practice. It is done by the Chief Election Commissioner. This is what happened here. The Home Secretary was sending circulars to the Election Officers in different parts of the country : "[illegible] the report to us, but not to the Chief Election Commissioner" This is one understanding. This understanding emanates from this Government. This does not come from outside. This is the serious difference of opinion between us. It is not a question of three-member Commission or five-member Commission. This is not the point. I want my friend Swaminathan to understand the real issue. The debate is now going on in the House. It is not a question of having a three-member Commission or one-member Commission. You can have one-member Commission. What is the status of an Election Commissioner, that is the point we are debating. One understanding is—I think that is the

constitutional understanding; that is why it is understanding. I may be wrong. I am not a constitutional expert. According to me, it is the real constitutional understanding—the Election Commission is an independent institution. It is an independent institution. Somebody has been saying—he is a Supreme Court lawyer—that this is the first time this issue is coming to the Supreme Court. This is the first time this issue about the status of different Election Commissioners is coming to the Supreme Court. This is what my advocate of the Supreme Court has been arguing in the House. I am not an expert in legal matters but I want to draw his attention to the fact that his point was debated by the Supreme Court some time back. Now, this a point debated by a Constitution Bench; I agree. That is the difference. This issue was debated once by the Supreme Court and the Supreme Court said—I will read the observations made by the Supreme Court at that time—the case was referred to by my friend, Mr. Shah. It was S. S. Dhanoa's case—I want my lawyer friend to listen to it because he says this is the first time; but this is the second time this issue has come—in para 14 of the observations they said "What is, therefore, evident from the discussion of the framers of the Constitution is, firstly they do not give the same status to the Election Commissioners as of the Chief Election Commissioner." They did not give the same status to the Election Commissioners, according to the Constitution. "And secondly, they want the Chief Election Commissioner to be in overall control of the business of the Commission."

THE VICE-CHAIRMAN (SYED SUBTEY RAZI) : In the Chair. This issue was gone into by the Supreme Court once. What is the role of other Election Commissioners ? What is the role of the Chief Election Commissioner ? This was decided by the Supreme Court. Now, in contravention of this decision, what does your Bill say ? Sections 9 and 10 of the Bill say, "All the Election Commissioners are equal." There is no difference between an Election Commissioner and the Chief Election Commissioner. According to them, all are equal. That is why it says this Bill is unconstitutional, because the interpretation was done by the Supreme Court. I am not depending upon my understanding of the law. The Supreme Court once decided this question. You can again, if you want, send it to the Supreme Court; let them give us a judgment. According to the present understanding of the Supreme Court, this Bill is unconstitutional.

My second reason for opposing the Bill is, this Bill has got some political motive. That is why I object, seriously object. How would I say that it has got some political motive ? The Chief Election Commissioner says—I read it in the newspaper and I got a copy of it—"On two occasions, one, when the Tripura elections were conducted and second when the mini-elections in all these five States were conducted, I was approached by the top leadership of the ruling party." He mentioned it in his petition. I do not know whether it is true or not. It is up to the Government to reply. "Two times the top leaders of the ruling party were trying to impress upon me to delay the date or change the date." He says, "I cannot do it." My friend was saying, once in the Assembly debate one gentleman was saying that the Election Commission should not be the thumb of the Executive. That is what Mr. Seshan did, the Chief Election Commissioner did. He has never become a thumb of the Executive. He might have committed serious mistakes. I have a difference of opinion with him. I differ from the Election Commissioner on some of his actions. On some of the issues I have a difference of opinion with him. But I should say that in this mini-election, when all of us are debating the electoral reforms, how to prevent massive impersonations, how to prevent massive rigging how to prevent massive booth capturing—we have been discussing them for the past four or five years—we find in general the elections were peaceful. There was no booth capturing on a large scale, there

was no rigging on a large scale; there was no impersonation on a massive scale. The elections were conducted fairly well this time and the credit for this goes to Mr. Seshan. I have no doubt about it. I have no hesitation to say that. I have criticism against him. But this time he proved that he could act independently, according to his own conscience and on his own understanding of the Constitution. So, this Bill has got two parts. I am opposing it on two grounds. Firstly, it is not constitutionally valid and, secondly, this has got a political motivation. I am not in agreement with this Bill. I would request the Minister that—if you want a three-member Commission, I am for it; if you want a four-member Commission I am for it—let us have a new Bill, a comprehensive Bill, covering all the electoral reforms which have been raised in the country. Let him bring it. Everybody will support it. That is the need of the hour. That is my humble request. Thank you.

SHRI MENTAY PADMANABHAM : Mr. Vice-Chairman, I rise to oppose this Bill on two counts. First of all, the Government is increasingly resorting to the practice of issuing Ordinances, which is anti-democratic and antithetical to the spirit of parliamentary system of democracy. Whenever the Government promulgates an Ordinance we have been asking the Government not to resort to it. We have been asking the Government to ponder over it and then try to bring a legislation in the Parliament itself instead of resorting to issuing of Ordinances. A number of my friends have already mentioned his aspect. That is the main reason for my opposing this Bill. Another aspect is the motivation behind this Bill. I suspect that the Government brought this Bill with a mala fide intention. This Ordinance was promulgated on 1st October knowing fully well that the elections to U.P., Madhya Pradesh and other States were taking place in the month of November. What is the great urgency for issuing it ? I would like to recall that on a number of occasions, when we discussed this issue of the Election Commissioner, almost all the Members of the Opposition, including some Members of the Treasury Benches, supported a multi-member Election Commission. We all supported it. We wanted a multi-member Election Commission. That was three or four months ago, before the Ordinance was promulgated. Why did the Government drag its feet on taking up this issue ? Why did they delay it ? What was the reply of the Government at that point of time when we raised this issue ? We wanted it. The Janata Dal wanted it. The C.P.M. wanted it. Everybody in the House, except one or two parties, supported this multi-member Election Commission.

SHRI G. SWAMINATHAN : Then why are you opposing it now ?

SHRI MENTAY PADMANABHAM : I will come to that. Then the Government did not come out openly. They did not say that they were prepared to bring a Bill to make necessary changes to create a multi-member Election Commission. Why did they suddenly think of issuing an Ordinance on 1st October ? The Chief Election Commissioner himself said it openly in so many words that since he could not oblige the Government—he named the Prime Minister because the Prime Minister himself wanted that the elections somehow or the other should be postponed; that is the most unfortunate thing—the Government brought this Ordinance. That is what the Election Commissioner has said. It appeared in all the papers. Either the official spokesman or the non-official spokesman...(*interruptions*).

SHRI H. R. BHARDWAJ : Sir, whatever affidavits, whatever arguments and whatever submissions are contained before the Supreme Court, they should not be raised here. That is the established convention. (*interruptions*)

SHRI N. E. BALARAM : It is a public document. Why can't we raise it here ? (*Interruptions*).

SHRI MANTY PADMANABHAM : This affidavit is a public document.

SHRI H. R. BHARDWAJ : Whether it is true or false, it should not be raised here.

SHRI MENTAY PADMANABHAM : I am only trying to bring to the notice of the House that the Government has brought forward this Bill with mala fide intentions. It is very clear. There is absolutely no doubt about it. Sir, there was a Bill introduced on 30th May, 1990 by Shri Dinesh Goswami. While introducing the Bill, the Minister had also mentioned about it in the Bill. That Bill contained some vital issues. Those issues are missing from this Bill. The Minister himself had mentioned about it in the Bill. I am only refering to it. While introducing the Bill the Minister mentioned that the Goswami Committee and a number of other Committees wanted a multi-member Election Commission that is why they have brought forward this multi-member Election Commission Ordinance. There are many other issues which were mentioned in that Bill. Mr. Dinesh Goswami introduced it in the House. That Bill is still pending. Why has the Government put it in a cold storage ? Why has the Government brought out this Ordinance now ? There is absolutely no doubt that the Government has brought forward this Bill with mala fide intentions.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Please conclude within two minutes.

SHRI MENTAY PADMANABHAM : Mr. Bhatia has just now said, "The matter is sub judice". The hon. Minister has also said that the matter is sub judice. The basic point is, when the matter is sub judice, when the matter is pending in the Supreme Court, can we discuss this Bill here ? When we are allowed to discuss this Bill here, then whatever documents are available in the Supreme Court they are all public documents. I can freely quote that document. Any Member can freely quote that document. Therefore, I once again advise and appeal to the hon. Minister to think over it. I request the hon. Minister, "Please don't move forward with this Bill, withdraw this Bill." The Minister should not stand on a prestige issue because this Government has already lost a lot of prestige. Now there is no prestige left. The matter is being discussed in the Supreme Court. The Supreme Court will clarify certain issues. After that you can bring out a comprehensive legislation with regard to the electoral reforms and you can prove your good intentions. If they want to bring out this kind of Ordinances, if they want to bring out this kind of Bills, if they want to huddle through these Bills without proper discussion and without proper understanding, then people will not appreciate your intentions. They will believe that the intentions of the Government are mala fide.

SHRI G. G. SWELL (Meghalaya) : Mr. Vice-Chairman, on principle three heads are better than one is accepted. It will make for better circumspection, better informed discussion and hopefully better balanced decision. Moreover, it will curb personal obsessions, fixations and fantasies. But our experience, after the Ordinance which converted the Commission into a three-member Commission, was not happy. The spectacle was not edifying. Instead of the Commission acting as an example of moderation and dignity, it became a place of tom-cat who wails, sanarls and caterwauls at each other. After which one went on indefinite leave and the other was not heard any more. Now having said that I want to say that I am not opposed to a Multi-Member Commission. But I have my grave doubts and the Minister may kindly reply to this point. I would like to know whether, by this Bill we are not trying to circumvent the Constitution, whether we are not coming in

conflict with the provisions of the Constitution. By this Bill you have put the other Members of the Commission almost on a par with the Chief Election Commissioner —same salary, same conditions of service and the same procedure for removal. But the Constitution has given the Chief Election Commissioner a primary place. That is why the Constitution says that he will preside over the meetings of the Commission. The Constitution says that the removal of any other Election Commissioner must receive his recommendation. I think the Minister will accept that this is the Constitutional position. Now I want to put a hypothetical question. Suppose a question arose of impeachment. According to the provisions in this Bill he can be removed only by impeachment in the same manner as a judge of the Supreme Court. Suppose the question of impeachment of any one member of the Commission apart from the Chief Election Commissioner arises and the Chief Election Commissioner says, 'I do not recommend it', in that case, can you go ahead with the impeachment procedings ? I think it is a question that you have to think over. I know you are in a position where you either have the Ordinance approved or disapproved. I don't agree with the contention that if the Ordinance fails the Supreme Court will have nothing to adjudicate. It can adjudicate. Therefore, I would suggest that it would be much better if the Minister comes to this House with a forthright amendment proposal to the Constitution. Thank you.

SHRI P. UPENDRA : Mr. Vice-Chairman, Sir, I am not surprised over this Ordinance or the Bill. This is in consonance with the style of functioning of this Government, that is, doing the right things at the wrong time and in the wrong manner and vice-versa. It is very surprising that a demand which was universally supported by all the parties should today find some opposition in this House and the Bill has to be voted upon. This is because of the bungling things by this Government. This is not the first time that they have done this. This is the second ime. There is something wrong with the drafting also and the Law Minister should take note of it. I know he tells certain things privately and he cannot say it in the House. (*Interruptions*).

SHRI H. R. BHARDWAJ : I did not tell him anything privately. I don't talk to him at all.. (*Interruptions*)..

SHRI P. UPENDRA : Whatever is coming from the Law Ministry now-a-days, whether in the form of an Ordinance or a Bill, there seems to be something lacking and something unprofessional about it. Even a first year Law student would do better than that. We have seen this in the case of the Religion Bill and now we are seeing it in this case. No expert lawmaker would ever ignore the previous decisions of the Supreme Court. The Constitutional provisions as contained in articles 324 (3) and 324 (5) clearly define the powers and privileges of the Chief Election Commissioner. He is defined as the Chairman of the Commission. It has been stated that service conditions of the Chief Election Commissioner cannot be changed to his detriment. In spite of all that, if this Government could bring in an Ordinance and now this Bill, I can only pity their foolishness. Sir, this has been brought with a mala fide intention and there is no doubt about it. Otherwise, if they were genuinely interested in improving the effective functioning of the Election Commission, what was the need for such a coup-like order on that day, on the 1st October ? When the Chief Election Commissioner was on tour you rushed the Election Commissioners to occupy the office as if it was President's Rule and somebody was taking over as the Governor. This shows the male fide intention of the Government. You are not interested in the effective functioning of the Election Commission. But you just wanted to twist the arm of the Chief Election Commissioner. But you would not have wished for it; today, he is the most popular man. Today, if he contests for election, he will

win hands down throughout the country.. (*Interruptions*).

SHRI S. K. T. RAMACHANDRAN (Tamil Nadu) : We are not discussing about the personal conduct of the man. We are discussing about the office of the Election Commission.

SHRI P. UPENDRA : The whole country applauds him for upholding the independence of the Election Commission. He has converted it from a Department of the Ministry of Law to an independent Constitutional authority. For that, we have to applaud the Chief Election Commissioner and we should thank him for ever (*Interruptions*).

SHRI S. K. T. RAMACHANDRAN : It is your perception.

SHRI P. UPENDRA : Now, we must also consider another aspect. The Supreme Court has taken a view on this matter. Sir, there are contradictions here. We wanted a multi-member Commission so that at any time any erratic behaviour of an individual would not affect the functioning of the Commission. There was a motive for that. But, now, if the Supreme Court has stuck to the stand that the two others are only to be consulted and that the final authority vested with the Chief Election Commissioner, then what for do we need these two Commissioners who would be mere advisers and will have no powers ? So, why should we have a multi-member Commission ? The time has come to think of this aspect. Therefore, this is the time to consult all political parties and Constitutional experts and come out with a clear-headed Bill and an effective. But which will stand the scrutiny of law. They are not doing this in spite of repeated requests. We have asked for a comprehensive electoral reform. Somebody has also questioned about the Dinesh Goswami Report. Dinesh Goswami Report clearly specified the procedure to be adopted in appointing these three people. If you follow that procedure, there will be no quarrel over it. But, here, you are not doing that. Whenever you have a convenient person, a mild person, as Chief Election Commissioner, you keep quiet. Whenever you find a difficult man you are trying to twist him by appointing two other Commissioners. You have done it twice You even tried to twist a very modest and mild man like Mr. Peri Shastri. This cannot go on. After all, we are very proud of the democratic system in this country and the bulwark of the democratic system is the Election Commission. If we try to destroy the Election Commission by these methods, India cannot be proud of this democratic heritage. Now, what is going to happen ? If the Ordinance lapses, only two men will be affected. One man has already gone to till his field and another man is a friend of the Prime Minister; he can find him any other job. Heavens will not fall; you can bring a very comprehensive and an effective Bill. I submit that this Bill be rejected or withdrawn or least be referred to a Joint Select Committee.

PROF. SAURIN BHATTACHARYA (West Bengal) : Mr. Vice-Chairman, Sir, the various views which have been expressed here are not only contradictory but sometimes self-contradictory and also contradictory to their earlier position. But, among other things, Mr. Chaturvedi raised some historical points regarding Congress-I for learning the lessons of the French Revolution. He has landed himself in a medieval organisation which has a medieval outlook like the BJP. Perhaps, he is looking forward to the outbreak of a French Revolution in India. In fact, if and when a French Revolution breaks out, it has to be a socialist revolution. What do we have here on both the sides : Mr. Shah moving a Statutory Resolution and Mr. Bhardwaj, the Bill; I mean, both representing capitalists. So far as this Bill is concerned, I extend my support for the simple reason that it converts a one-man show into at least a triumvirate-show. In the triumvirate, who would be the trusted man of the Prime Minister and who would be the untrusted man of the

Prime Minister is not my concern. I must say that it is borne out of no malice for Mr. Seshan though there is enough malice for him in me for the way this particular person functioned and for his utterances. He called himself an Alsatian. He called the Secretaries to the Government*

forgetting that for a long time he also was a* because he was ultimately in the higher administrative office, the office of Cabinet Secretary. This shows how* he is. No doubt he is* for this constitutional post, for this high office. No doubt, in respect of elections, certain improvement has been effected under his guidance. But that does not mean that the Election Commission should be simply a one-man show. In my opinion, even the constitutional provision is at fault. Whatever Dr. Ambedkar might have said, whatever Mr. Munshi might have said, the final provision of the Constitution is open to confusion and has created this confusion. In a three-member body, how can one be more than first among equals ? Even the Chief Justice of the Supreme Court or the Chief Justices of the High Courts or even the Prime Minister of the country are first among equals. A Chief Justice has no more than one vote, whether in the Supreme Court or in the High Courts. Then, how can the Chief Election Commissioner be the repository of all wisdom ? Prof. Swell has put the issue succinctly when he said that the judgement of three is better than that of one. From that point of view, whatever might have been the driving force of the Government, whether it is out of revengefulness for Mr. Seshan's refusal to postpone the elections, the step that was taken was in the right direction. If necessary, if the Supreme Court finds fault with the Bill, the Government should not shy away from bringing a constitutional amendment because of certain difficulties in effecting a constitutional amendment, because here also some political undercurrents are functioning. Mr. Seshan is* from certain sections for reasons best known to him, best known to those* The Government, in spite of this Bill, must act reasonably, creditably and prudently. If, after the passage of this Bill, the Supreme Court finds that it is not in order, then the only course open will be an amendment to the Constitution and I hope from the side of the Government, it will demonstrate such an outlook. With these words, I thank you very much for giving me this opportunity.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Shri Bhupinder Singh Mann—not present. Shri Viren J. Shah.

SHRI VIREN J. SHAH : Mr. Vice-Chairman, now the hon. Minister has to reply and then I have the right to reply. That is what I understand. But when the hon. Minister replies, will he kindly make one point clear : the circumstances that existed which had necessitated immediate action on the first of October, 1993 ?

SHRI H. R. BHARDWAJ : Mr. Vice-Chairman, Sir, I may be permitted to thank all the honourable Members of this House who have contributed to this debate I need not take the time of the House to remind the Members that the necessity to bring forward this Bill in the shape of an Ordinance earlier arose out of various factors and one of them was that the demand for having a multi-member Commission had been raised from time to time. And, I also referred to the late Dinesh Goswami's recommendation also with that objective. After the Dhanoa case, the Government led by Mr. V. P. Singh went into this question and all parties without exception, even the BJP, were a party to the decision that we should have a multi-member Commission—their leader is on record, Mr. Vajpayee—and all Members have, in principle, agreed that we should have a multi-member Commission. Now, there can be point that on the question of appointment we shall have such and such a procedure. But the point is that today, no party can say that it never wanted a multi-member Commission. That is why I referred to the recommendation of the late Dinesh Goswami. I think in the last

*Expugned as ordered by the Chair.

*Expugned as ordered by the Chair.

session of Parliament, I can remember very categorically, all parties without exception joined a meeting in which I also participated and they demanded that the Government must appoint a multi-member Commission immediately and introduce a Bill to that effect. There was no exception and no party was an exception. Every party was invited and participated. But this Government, as a matter of fact, was late in bringing forward this and I accept that guilt; we are late. After that session, we had discussed this mater and when we were satisfied that this should be implemented because of the recommendations that we were getting from all political parties, we thought it very necessary to implement it. I refute all the allegations. There is no motive. You are reading too much in'o it. There is no motive. This is the concern of all the political parties, while participating in the functioning of democracy, to strengthen the Election Commission and this has always been said.

Today, we are in power and we are charged with the responsibility of getting the elections conducted in a free and fair manner. I have to respond to all the queries, whether they are in regard to the independence of the Commission or the conduct of the Commission, and I am responsible to Parliament and I have to answer and it is in my interest that the Election Commission should be independent, should be forthright and should implement our decisions quickly. The point is that I don't attribute any motives to any person. This was a debate which arose on several occasions in that House and, may be in this House also, and it was the desire of Parliament—I again emphasise this—that we should have two more Members. It was not in very olden times, but only recently, very recently, a few months back only. But, today, I am surprised to see that people are raising doubts as to why we have brought forward this. I am implementing the will of Parliament by bringing forward this Bill. Therefore, there is no difference of opinion on having a multi-member Commission. Some Members have attributed motives to the Government, to the Prime Minister or to some other Minister and that is not a very healthy thing. What we are doing is that we are adopting what we wanted, which was unanimous, a multi-member body. Now, we have added two more provisions. When these two Members are appointed, what would be their status is the question.

Sir, I will briefly touch upon article 324 of the Constitution. Now, some Members feel that the Election Commission means only the Chief Election Commissioner. In article 324, the Constitution says :

> "The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission)."

So, there is only an institution and there is no individual. There is a Commission, an institution, which is charged with this duty under this article. Now, what is this Election Commission ? The point is that you are taking the individual as a substitute for the institutions. Article 324(2) says : The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix....". We are entitled under the Constitution to fix the members other than the Chief Election Commissioner. And we have done so not by Ordinance but by Presidential order. And that was done also in Dhanoa's case. And again the President rescinded his own order. So, we are fixing the members of the Election Commission at two under the Constitution, and the President is competent. Now, this law which we are bringing today is again under the Constitution. I read article 324(5) : "Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Re-

gional Commissioners shall be such as the President may by rule determine." Now, this power to legislate and to bring the law before the Parliament is given under the Constitution regarding the conditions of service and such matters. Therefore, this Ordinance has been brought under the provisions of the Constitution.

Now, some people are saying that we are derogating the position of the Election Commission. How do we do it, Sir, He is under the Constitution the Chairman. That position is accepted. Everybody will accept it. And he cannot be removed. What are the protections given to him under the Constitution ? He cannot be removed except by way of an impeachment. It is not available to the other two members. That is a special privilege which is given only to the CEC. Secondly, he is the Chairman. Nobody can become Chairman when he is there And the third is, when we have to remove, when the President has to remove the other members, we have to seek the recommendation of the CEC. So, his position in the Constitution is defined. We are not deviating even an inch out of this position which is given in the Constitution. Who has said that he shall not be the Chairman ? Who has said that he can be removed except by an impeachment ? Who has said that he will not be consulted ? We are keeping his position absolutely in tact. Any apprehension to the contrary is misfounded and totally unfounded.

SHRI G. G. SWELL : Mr. Minister. can you yield for a minute ? You see the two provisions under (5) of 324. The second proviso says : "Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner." You have provided by this legislation that the other Election Commissioners can be removed only in the like manner as the Chief Election Commessioner.

AN HON. MEMBER : No, No.

SHRI G.G. SWELL : Suppose he does not recommend, what happens ?

SHRI H.R. BHARDWAJ : Sir, these provisions....

SHRI G.G. SWELL : Suppose he recommends that he cannot be removed What happens ? There will be a stalemate.

SHRI H. R. BHARDWAJ : Sir, this provision which is the recommendation of the Chief Election Commissioner is not binding on the Government. He will be consulted in the matter of recommendation. Therefore, this position with regard to other members is totally different than the CEC. On this issue, there is no confusion. As I was submitting, what is that we are today bringing before the House ? We are going completely in accordance with the Supreme Court's recommendation in Dhanoa's case.

Sir, I would like to briefly read para 21, and I would not read the whole judgement. Para 21 says, I quote, "It is an acknowledged rule of transacting business in a multi-member body when there is no express provision to the contrary, the business is to be carried on unanimously." That is the first part of my provision in the Act. It further says, "The rule to the contrary such as the decision by majority has to be laid down specifically by spelling out the kind of majority—whether simple, special, of all the members or of the members present, and voting, etc. In a case such as that of the Election Commission which is not merely an advisory body but an executive one, it is difficult to carry on its affairs by insisting on unanimous decisions." That is why, Sir, these words, 'as far as possible' It further says, "Hence, a realistic approach demands that either the procedure for transacting business is spelt out...."—Sir, I crave your indulgence to this wording— ...."transacting business is spelt out by a statute or a rule." Sir, by statute means the law, which is this Ordinance. It says, "or by a rule." Sir,

we are not framing rules. That means, we are not taking it lightly. We are bringing a legislation before this august House which is fully competent to go into these matters. It further says, "...or a rule either prior to or simultaneously with the appointment of the Election Commissioners or that no appointment of Election Commissioners is made in the absence of such procedure." Sir, we have gone absolutely line by line with the order of the Supreme Court. We are complying with the order of the Supreme Court in letter and in spirit. We are appointing the Election Commissioners and on the same day—some hon. Members raised this question as to why did we bring the Ordinance. Sir, this is a provision in the order of the Supreme Court that the day you appoint them, you must decipher their role; you must define their role in the Statute or in the rule. We are not bringing the rule. We have brought this Ordinance and the Parliament was not in session. There is no other mechanism except by Ordinance that we can legislate on these matters. So, we have now taken the ruling word by word in Dhanoa's case and after these two members were appointed, provisions in 9 and 10 specifically deal with these matters. The first is unanimity. Everybody has praised the Election Commissioner and I hope he will act according to that and he will take his two members into confidence. He can say : 'We are three members; let us sit together. I am the Chairman. I allow Mr. A to deal with these three States; Mr. B would deal with the other three States and I will deal with the rest.' They can sit together and decide on all these administrative matters. Why are they hesitant to do it ? We cannot explain it as hon. Members of Parliament here. Once we decide that there has to be a multi-member Commission, then I will put a question to the hon. House. Somebody will have to decide as to how they will work. And the law spells that out. In U.P., there is one Chairman. He allocates work to various members and there is no problem. The Chief Justice of the Supreme Court allocates and decides the roster of the court. In the High Courts and in the Supreme Court, there is no problem. They are all multi-member institutions. All these institutions are functioning. But why did this problem arise here ?

SHRI P. UPENDRA : It is because of the manner you appointed them.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : No interruptions please.

SHRI H. R. BHARDWAJ : I want to explain every point which the hon. Members raised in this House, and it is my duty. But the point is, once the Parliament wants a multi-member Election Commission, then I have to decide their role because in Dhanoa's case, the Supreme Court said : 'Either don't appoint them, or if you do that, either by a rule or by Statute, define their working procedure.' Transaction of Business rules are well-known in every institution. Even in the Council of Ministers we are having our Transaction of Business Rules, Allocation of Work. And this is the healthy procedure which should be followed by the institutions and I will be the happiest man if the Election Commission did that.

With regard to other point, I have already refuted the charge of any motive being attributed to the Government. The Government is sincere. We have taken all parties into confidence and I assure you with regard to other matters also. Some Janta Dal Members even in the other House raised a question as so why we cannot have a Constitutional amendment. We are ready to discuss all electoral reforms with all the political parties. All election matters and all remaining electorals reforms will be discussed. But the question is that when we take steps to implement them, you do not support us with the same vehemence that you show when you ask us to implement them. That is where we have a grievance.

Suggestions have been made by many hon. Members and we have noted all

these suggestions. But this is a limited measure by which we have added two members and we have provided for the transaction of business. We have amended the long Title also. Some Members asked as to how can we do this. This is not limited to the Conditions of Service. We have provided and if you want, I can read from those provisions which say....

SOME HON. MEMBERS : No, no, not needed.

SHRI H. R. BHARDWAJ : So, that has been given.

SHRI MENTAY PADMANABHAM : We wanted a comprehensive Bill on electoral reform.

SHRI H. R. BHARDWAJ : I have said that I am going to discuss it with all the political parties with regard to the comprehensive Bill and will bring it.

I now request all the hon. Members to withdraw their opposition to the Bill.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Now Mr. Viren J. Shah.

SHRI TINDIVANAM G. VENKATRAMAN : On a point of order.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : No, I am not permitting. Please take your seat. Please take your seat.

SHRI TINDIVANAM G. VENKATRAMAN : I am on a point of order.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : There is no question of point of order. The business is running according to the procedures and rules of the House. So please sit down. I cannot permit you at this point of time.

SHRI TINDIVANAM G. VENKATRAMAN : He has not answered my point.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : No, at the time of the second reading, I may consider. Please take your seat.

SHRI TINDIVANAM G. VENKATRAMAN : I seek your protection.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : After Mr. Shah has used his right of reply, I may consider your request.

SHRI VIREN J. SHAH : Sir, the hon. Minister when he introduced the Bill, began from a prepared speech in which he quoted Dinesh Goswami report and also quoted from the judgement of the Supreme Court. He quoted from paragraph 21 of the Supreme Court judgement in Dhanoa vs. the Union of India. He began by saying that for a long time there has been a demand for a multi-member Election Commission. Perhaps, my point has not been clearly understood. My Resolution is not against a multimember Commission. The Resolution that I moved was against the Ordinance as such. I gave reasons. This is the 32nd Ordinance brought forward by the Government this year. In the last Session also, this point was made and the hon. Minister agreed that it should not be done.

He talked about Election Commission's independence and will of Parliament. The will of Parliament could have been implemented not by bringing forward an Ordinance on 1st October when the Government knows that for three years this issue was pending and there was the Dinesh Goswami Committee's report. The hon. Member, Mr. Vithalbhai Patel, mentioned about it. Perhaps, if he reads it, he would find that it makes it very clear as to how the appointments have to be made in consultation with the Chief Justice of India and the Leader of the Opposition. We are not against a multi-member Commission at all.

I would ask the hon. Law Minister to look at the Constituent Assembly debates of 1949, particularly, when this article was brought in, i.e. article 324, which

was then article 289. Dr. Ambedkar introduced it on 15th June, 1949. The debate on this took place on 16th June, 1949. There were interesting Comments. I would like to read only a part of it. Dr. Ambedkar brought forward an amendment to his amendment. I have referred to what Mr. K.M. Munshi had said. He said that Government also could be corrupt. He mentioned it at that time which was accepted by Dr. Ambedkar. Who brought forward an amendment. The original clause 2 was that the Chief Election Commissioner shall be appointed by the President. He said that this would be changed by his amendment. His amendment was 'The appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law—this was what Dr. Ambedkar brought in—made in this behalf by Parliament, be made by the President'. At that time, eminent persons like Ananthasayanam Aiyangar, T.T., Krishnamachari, K. Santhanam and others demanded that this should not be accepted without a further debate. The President of the Constituent Assembly, Dr. Rajendra Prasad, wanted that it should be voted, but in deference to the wishes of many Members, he agreed for a debate.

I would recommend to the hon. Minister to kindly read those debates not only in regard to this article, but in regard to article 123 as well which relates to the Ordinance-making power. He would see what kind of debates took place regardless of any party affiliations. There were great personalities. Even Pandit Jawaharlal Nehru said that only in cases of absolute urgency when no other course was possible, it should be resorted to. As I said, this question of having a multi-member Commission is pending for the last three years. Therefore, the bringing forward of an Ordinance on 1st October has created doubts in the minds of the people. Some may even consider it as *mala fide* because of the apprehension whether it would be properly used or misused.

He quoted from the Supreme Court judgement in Dhanoa vs. Union of India. He quoted paragraph 21. I would ask the hon. Minister to look at paragraph 22 also. I read just one sentence. 'Nothing can be farther from reality. In a democratic regime, the Government represents the people. It adds to its respectability and credibility, if the Government also owns its mistakes frankly'. He did not read this portion. He read the subsequent part. I would invite his attention to paragraph 23 also. It makes it clear. It says : '...it is not possible to hold that the Election Commissioners have the same powers and the authority as the Chief Election Commissioner' and it may well be that the Chief Election Commissioner has the power to disregard and override the views of the Election Commissioners, ..." Subsequently, they have also strongly criticised the appointment of the two Election Commissoners by the Government, in the same manner as the Government did on 1st October. Now, we will have to wait as to what the Supreme Court has to say on this. The Supreme Court also mentioned that "the work did not warrant." The Supreme Court said so. And then in clause 10(1) you have mentioned about unanimity. The Supreme Court has also spelt out this aspect very specifically. ...(*Interruptions*).

SHRI S.K.T. RAMACHANDRAN : Is it relevant to this Bill ?

SHRI AJIT P. K. JOGI (Madhya Pradesh) : He should refer to the Bill. .... (*Interruptions*).

SHRI VIREN J. SHAH : I respect the views of hon. Mr. Jogi, but Mr. Jogi was not present when I moved the Resolution. I moved the Resolution that the Ordinance should not be approved. That is so simple, and if he had been there, he would not have asked me to refer to the Bill..... (*Interruptions*).

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Yes, Mr. Shah, please try to be brief.

SHRI VIREN J. SHAH : I have to continue for a while. If there are interruptions, I cannot help.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : You take your time. I am just requesting you.

SHRI VIREN J. SHAH : What were the circumstances ? If you go through the Constituent Assembly debates, the circumstances that would merit such an Ordinance, would be very clear. The hon. Law Minister has not rather answered what were the circumstances.... (*Interruptions*)... Here I would like to mention what Dr. Ambedkar said on 16th June with regard to the question of appointment. There is one interesting point that Dr. Ambedkar made. Dr. Ambedkar made that point in relation to the point made not only by Prof. Shibban Lal Saksena, but very respected Members from the Congress Party did not want the executive to have powers. To that Dr. Ambedkar said, I am quoting :

> "The Drafting Committee had paid considerable attention to this quesion because as I said it is going to be one of our greatest headches and as a *via media* it was thought that if this Assembly would give or enact what is called an Instrument of Instructions to the President and provide therein some machinery which it would be obligatory on the President to consult before making any appointment."

I am not going further into the debate but that could have been brought up. There was no need for promulgating an Ordinance on a vital matter like this because ultimately the objective was not fulfilled, none of these two Election Commissioners could even function and the election could take place as has been mentioned by me. My only point is, and I repeat, that Governments or Chief Election Commissioners will come and go, we are not talking about individuals at all. In fact, I am sorry that some of the Members referred to individuals which we should not have done in this House, but it is the institutions which are important. That is why our founding fathers worked on it for full 2-1|2 years and sat from 8.00 a.m. till 10.00 p.m. So, institutions are important. So, do go in for electoral reforms. We are for multi-member Election Commission but not in a haphazard manner like this; follow either the Goswami Committee report or any other report. There are a number of reports. Even the Chief Election Commissioner has sent two years back a complete report to the Government about what kind of electoral reforms should be made.

SHRI SATYA PRAKASH MALAVIYA: They have not even acknowledged that.

SHRI VIREN J. SHAH : So, with due respect I still submit and request the hon. Minister to follow the advice given by the Supreme Court judgement which I read and that is :

> "It adds to its respectability and credibility, if the Government also owns its mistakes frankly."

I would request you to consider it even now and allow this Resolution to be passed and withdraw the Bill.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Now I will put the motion. The question is :

> "That this House disapproves of the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993 (No. 32 of 1993) promulgated by the President on the 1st October, 1993."

The motion was negatived.

Now I put the Amendment moved by Shri Satya Prakash Malaviya for reference of the Bill to a Select Committee to vote.

The amendment was negatived.

I shall now put the motion moved by Shri H. R. Bhardwaj to vote. The question is :

That the Bill to amend the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 5 were added to the Bill.

We shall now take up clause 6. There is one amendment (No. 1) by Shri Shankar Dayal Singh.

(1) *Clause 6—Amendment of section 4.*

श्री शंकर दयाल सिंह : माननीय उपसभाध्यक्ष जी, मैं प्रस्ताव करता हूं कि : "पृष्ठ 2 पंक्ति 21 में पैंसठ वर्ष" शब्दों के स्थान पर "बासठ वर्ष" शब्द प्रतिस्थापित किए जाएं।

The question was proposed.

श्री शंकर दयाल सिंह : मैंने जो अपना अमेंडमेंट दिया है वह यह है कि 65 वर्ष के स्थान पर 52 वर्ष की आयु सीमा इसकी रहनी चाहिए इस लिए मैं चाहता हूं कि मेरे इस संशोधन को माननीय मंत्री जी स्वीकार कर लें··· (**व्यवधान**)

कल्याण मंत्री (श्री सीता राम केसरी) : मंत्रियों के लिए भी ····· (**व्यवधान**)

श्री शंकर दयाल सिंह : मंत्रियों के लिए तो 80 साल तक चलेगा ···· (व्यवधान) माथुर साहब कह रहे है कि 101 वर्ष कर दी जाए, लेकिन मेरा कहना है कि जब मंत्रियों का मामला आयेगा तो उस पर विचार किया जाएगा,जहां तक हमारे संशोधन का संबंध है वह इसलिए मान लें कि प्रतिदिन हम देख रहे हैं और और इस पर मैं कहना चाहता हूं कि आदमी की आयु ज्यों ज्यों बढ़ती जाती है, कुछ जगहों पर अक्षमी परिपक्व होता है, कुछ जगहों पर आदमी सिनाइल हो जाता है, सनकी हो जाता है झक्की हो जाता है. इसलिए उसी समय तक वह अपना काम करे जब तक वह सही हो। इतना महत्वपूर्ण जगह पर किसी व्यक्ति को आप बैठा दें और उसकी आयु 65, 70 या 75 वर्ष रख दें तो मैं समझता हूं कि यह देश के लिए और लोकतंत्र के लिए हानिकारक है । इसलिए मैं अनुरोध करता हूं कि मेरे इस संशोधन को स्वीकार कर लें।

SHRI H. R. BHARDWAJ : Sir, he is one of my very good friends. I would request him to kindly withdraw it.

श्री शंकर दयाल सिंह : आप इस पर बाद में विचार करेंगे, जब इलेक्टोरल रिफार्म्स की बात चलने लगे उस समय विचार करेंगे तो मैं इस संशोधन को वापस लेता हूं ।

The amendment (No. 1) was, by leave, withdrawn.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : I shall now put clause 7 to vote.

Clause 6 was added to the Bill.

We shall now take up clause 7. There is one amendment Are you moving it?

श्री शंकर दयाल सिंह : श्रीमन यह अमेंडमेंट भी मेरा उसी भाव को रखता है और 65 की जगह 62 करने का है, इसलिए मैं इस को प्रैस नहीं करता हूं ।

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : I shall now put clause7 to vote.

Clause 7 was added to the Bill.

Clause 8 was added to the Bill.

There is an amendment by Shri Shankar Dayal Singh for insertion of new Clause 8A. Are you moving it ?

Insertion of New Clause 8A

(No. 3)

श्री शंकर दयाल सिंह : महोदय, मैं प्रस्ताव करता हूं कि पृष्ठ 2 पंक्ति 41 के पश्चात् निम्नलिखित नया खंड जोड़ा जाए, अर्थात्

"8क. कोई व्यक्ति जिसने निर्वाचन

आयुक्त के रूप में कार्य किया हुआ है,

किसी भी आम चुनाव में भाग नहीं लेगा और लोक सभा अथवा विधान सभा निर्वाचन में अभ्यार्थी नहीं होगा।"

The question was proposed.

उप सभाध्यक्ष जी, यह मेरा अमेंडमेंट है जिसकी ओर मैं माननीय विधि मंत्री का ध्यान दिलाना चाहता हूं। मेरा कहना है कि जो भी मुख्य चुनाव आयुक्त हो रिटायरमेंट के बाद वह कहीं पर चुनाव में प्रत्याशी नहीं बने खासकर मैंने इस में लिखा है लोक सभा या विधान सभा का उम्मीदवार न हो।

इसलिए मैं अपनी इस बात को कह रहा हूं कि जो शंकाएं मेरे मन में आती है और पिछले दिनों में आई हैं, मैं किसी का नाम नहीं लेना चाहता, तो शंकाएं आई हैं, जो उंगलियां उठी हैं और जिनको लेकर जनता दल ने बार बार कहा है, दोनों सदनों में कहा है कि वर्तमान मुख्य चुनाव आयुक्त के ऊपर इम्पीचमेंट लाया जाए। उनको किसी भी रूप में रहने का अधिकार नहीं है। मैं सभी का विस्तार से जिक्र नहीं करना चाहता। इतना कहना चाहता हूं कि एक नया प्रोविजो इसमें जरूर जोड़ा जाना चाहिए कि जो मुख्य चुनाव आयुक्त के पद पर रह चुका हो, रिटायरमेंट के बाद वह लोक सभा का उम्मीदवार नहीं बनेगा, रिटायरमेंट के बाद किसी विधान सभा का उम्मीदवार नहीं बनेगा। मुझे शक है, शक ही नहीं बल्कि यह विश्वास है कि देश में जो तरीके चल रहे हैं, चीजें चल रही हैं, जिस तरह की हरकतें कुछ बड़े पदों पर रहने वाले कर रहे हैं जिनका इससे संबंध है, वे कल किसी तरह से किसी के उम्मीदवार होंगे तो हम लोगों को भी इस सदन में बैठने में बहुत नागवारी होगी। इसलिए मैं चाहता हूं इसके बारे में कम से कम हंसराज भारद्वाज जी दो बातें इसलिए कहें कि क्योंकि आप दूसरी जगहों पर जैसा लाये हैं, जजेज के मामले में बराबर लाते रहे हैं कि जो जज जिस कोर्ट में रहा हो उस कोर्ट में वह वकालत नहीं करता है, इसी तरह से जिस व्यक्ति ने पूरे देश का संचालन किया हो वह कम से कम उम्मीदवार न हो यह नई क्लाज जोड़ी जाए। यह मेरा अनुरोध मंत्री महोदय से है। यह बिल्कुल निरापद क्लाज है।

श्री पर्वतनेनि उपेन्द्र : राज्यपाल का क्या होगा ?

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Are you pressing the amendment ?

श्री शंकर दयाल सिंह : यह जो सारे इंडिकेशन मिल रहे हैं वह तो हमारे मित्र ने बता ही दिये। मैं कहना चाहता हूं कि इसको आप मान लीजिए और मानकर जो अधूरापन है वह पूरा हो जायेगा यह मैं विश्वास दिलाता हूं।

श्री संघ प्रिय गौतम : मैं सेशन की तारीफ करता हूं। उन्होंने बहुत अच्छा काम किया (**व्यवधान**)

SHRI H. R. BHARDWAJ : Sir, as I have already mentioned, there are some very nice suggestions which have emanated from all the speakers. I will have to go into them and then come back again because I cannot do anything unless we consult all the political parties. I will go by the spirit of the discussion today. We will put all these, including this very thing, before all the political parties.

..(*Interruptions*)

SHRI MENTAY PADMANABHAM . Can you suggest any time-frame ?

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Are you pressing the amendment ?

SHRI SHANKAR DAYAL SINGH ; Yes.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : The question is :

"That at page 2, *after* line 38, the following New Clause be *added*, namely :—"

"8A. Any person, having acted as Election Commissioner, shall not take part in any general election and shall not be a candidate at the Lok Sabha or Legislative Assembly Election."

The motion was negatived.

The question is :

"That Clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI H. R. BHARDWAJ : Sir, I move :

"That the Bill be passed."

The question was put and the motion was adopted.

THE CENSUS (AMENDMENT) BILL, 1993.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Now we take up the Census (Amendment) Bill, 1993.

SHRI G. SWAMINATHAN (Tamil Nadu) : We can take it up tomorrow, Sir.

SHRI P. UPENDRA (Andhra Pradesh) : Tomorrow... (*Interruptions*).

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. M. SAYEED) : Sir, I move :

"That the Bill further to amend the Census Act, as passed by the Lok Sabha, be taken into consideration."

This Bill has been considered and passed by the Lok Sabha on 9-12-1993.

SHRI G. SWAMINATHAN : A point of order, Sir. We have decided that the House would sit up to 6 o'clock. If it has to go beyond that, you have to ask for the consensus of the House. Without getting the consensus...

SHRI V. NARAYANASAMY (Pondicherry) : No. It was decided in the Business Advisory Committee... (*Interruptions*)

SHRI G. SWAMINATHAN : It was decided in the Business Advisory Committee that the House would sit up to 6 o'clock.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : I got your point.

SHRI G. SWAMINATHAN : For sitting beyond 6 o'clock you have to take the consensus of the House. Without taking the consensus of the House, you cannot go beyond 6 o'clock.

THE VICE-CHAIRMAN (SYED SUBTEY RAZI) : He is already on his legs; let him finish. Then we will see.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Actually, as the Minister has said, it has been decided in the BAC that the House will sit longer and finish today's business.

SHRI G. SWAMINATHAN : No. It was said the House will sit up to 6 o'clock.

SHRI P. UPENDRA : If necessary. You have to take up the Census (Amendment) Bill.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : I think the House agrees to carry on with the business. Yes, Mr. Minister.

SHRI P. M. SAYEED : The Census Act, 1948 was enacted to enable the Government to take a census throughout India. Since then, the census has been taken five times i.e. in 1951, 1961, 1971, 1981 and 1991. During the 1981 Census and more recently in the 1991 Census Operations it was felt that the existing provisions of the Census Act, 1948 were not adequate to tackle the problems that have increasingly been experienced during the successive Census rounds. It was common experience of the Directors of Census Operations and the census staff that Census Act required considerably strengthening to permit smooth conduct of the census. Some of the problems that need tidying over are; the local authorities do not often readily agree to make avail-